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REPORT

OF THE COMMITTEE ON PRISON REFORMS IN MYSORE 1941



BANGALORE:
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FROM

Rajadharmapravina Diwan Bahadur
K. S. CHANDRASEKHARA AIYAR, ESQ., B.A., B.L.,
Chairman, Prison Reforms Committee.

To

The Secretary to the Government of
His Highness the Maharaja of Mysore,
Law Department.

SIR,

I have the honour to submit herewith, for the information of Government, the Report of the Committee appointed under their Order No. P. 6040-103—Pris. 97-39-1, dated the 6th March 1940, to enquire into the system of prison administration in the Mysore State and to make suggestions for its improvement.

2. The Committee has been unanimous as to the views and recommendations expressed in the Report, and there are no separate minutes.

* * * *

I have the honour to be,
Sir,
Your most obedient servant,
K. S. CHANDRASEKHARA AIYAR,
Chairman.

COMMITTEE ON PRISON REFORMS IN MYSORE.

(Constituted under Government Order No. P. 6043-100—Pris. 97-39-1, dated 6th March 1940.)

Chairman.

1. *Rajadharmapravina Diwan Bahadur*
   K. S. CHANDRASEKHARA AIYAR, ESQ., B.A., B.L.,
   Retired Chief Judge of Mysore.

Members.

2. *Rajasevasakta*
   B. K. NARAYANA RAO, ESQ., B.A., M.B.C.M., etc.,
   Inspector-General of Prisons in Mysore.

3. ABDUL AZIZ KHAN, ESQ., B.A.,
   District Magistrate, Bangalore District.

4. B. G. APPADORAI MUDALIAR, ESQ., B.A., etc.,
   Acting Director of Industries and Commerce.

5. *Rajadharmaprasakta*
   K. SHANKARANARAYANA RAO., ESQ., M.A., B.L.,
   Retired Judge, High Court of Mysore.

6. D. H. CHANDRASEKHARAIYA, ESQ., B.A., LL.B.,
   Advocate and Member, Legislative Council.

7. B. PUTTAIYA, ESQ., B.A.,
   Retired Superintendent, Government Printing.

8. R. GOPALASWAMI IYER, ESQ.,
   Member, Representative Assembly.

Secretary.

9. B. K. RAMAKRISHNAIYA, ESQ., M.A., LL.B.,
   Assistant Secretary to Government.

TERMS AND SCOPE OF REFERENCE.

(The Committee has been appointed) "to make an enquiry into the whole matter of prison administration in the Mysore State, the efficacy of the existing system, and any defects therein, and to suggest remedies and improvements on practicable lines."

"The Committee will consider the following among other points falling within the scope of the enquiry:—

(1) The appropriateness and efficacy of the present system in the matter of its reformatory and deterrent effects;

(2) the classification of criminals and discrimination in regard to their treatment in jail;

(3) the employment of prisoners on appropriate forms of labour, including jail industries;

(4) the instruction and training of prisoners;

(5) the health and well-being of the inmates of prisons including those under trial;

(6) jail discipline, prison offences and punishments;

(7) dietary;

(8) release of prisoners on parole or security;

(9) the aftercare of discharged prisoners, including facilities for their reinstatement in social and economic life;

(10) jail visitors and honorary helpers in welfare work;

(11) prison staff, their recruitment, training duties and emoluments;

(12) number and location of prisons; and

(13) finance."

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REPORT

OF THE COMMITTEE ON PRISON REFORMS IN MYSORE

CHAPTER I.

Introduction.

SECTION A.

A SURVEY OF THE PRISON SYSTEM OF MYSORE.

Conditions before the Commission.

1. In the times before the British Commission, there was hardly anything that could be called a prison system in the Mysore State. Little regard was had to the accommodation of prisoners, and there was no attempt at their classification. Persons in custody, whether actually convicted or simply accused or merely suspected of crime, were all kept together in the same place. Men used to be put to work on the high roads even before trial, until the practice was abolished by a special order from the Commissioners.

Conditions in the non-Regulation era.

2. After the assumption of power by the British Government in 1831, improvements in prison management were gradually introduced. Some idea of the system which obtained during the non-Regulation period (from 1831 to 1856) may be gathered from the "General Memorandum on Mysore" drawn up by the Commissioner, Sir Mark Cubbon. There were eight jails in all at the time—three in the Bangalore Division, three in the Ashtagram Division, one in the Chitaldrug Division, and one in the Nagar Division. Of the three jails in the Bangalore Division, the Town Jail consisted of three "compartments," known severally as "the Felon's Jail," "the Debtor's Jail," and "the Insane Ward". The Fort Jail was originally used for the confinement of thugs sentenced to long periods of imprisonment; but later on

other criminals were also incarcerated there. The Road Jail was simply a movable camp, in the shape of a large temporary shed, the materials of which could be removed and re-erected where desired, and which was intended for able-bodied convicts employed on the making and repairing of roads. Jail conditions in the other divisions were more or less similar. Skilled labourers like ironsmiths, potters, and carpenters, as well as intelligent individuals of other classes, were employed in a workshop, and nearly all the wood and iron work of the travellers' bungalows and other public buildings was executed by them.

Diet, labour, health, etc.

3. The prison diet consisted of one and a quarter seer of ragi and a quarter anna in cash for each working day, and one seer of rice with the same money allowance for Sunday. Out of the money, the prisoners were allowed to purchase for themselves salt, pepper, chillies and other condiments; but care was taken to prevent their having access to drugs, opium or spirits.

The working hours were from sunrise till 3 p.m., with an hour's rest at noon. The convicts were then mustered and searched, given their food, and secured before dark. There was no labour on Sunday, and each man was given a small allowance of oil and soap-nut for ablution.

Every convict had a *cumbly* and one piece of cloth served out to him annually. A "native doctor" was attached to each jail, but all serious cases of sickness were treated by men on the regular medical staff. The health of prisoners was reported to be good, and so also was their general behaviour.

General character of system.

4. The system pursued was more or less typical of the matter-of-fact, rigorous regime prevalent at that time. Discipline was strict, labour exacting, and diet and clothing were regulated by the principle of "sustaining the ordinary physical strength of the man who has to endure toil." The ruling idea was the enforcement of the deterrent aspects of imprisonment. As one experienced Division Superintendent put it, "when properly kept to their work as they ought to be, and are, there are very few individuals to whom jail life can hold out any allurements." To a simliar effect was the assurance offered by another Superintendent, that "the punishment of the common convict is ample, and there is nothing in his condition to tempt the lowest of the population to subject themselves to it."

Changes during transition period.

5. In the period of transition from the non-Regulation to the Regulation period, covering the years between 1856 and 1862, various details of jail management seem to have received attention. Among other things, a new scale of dietary was framed, and the former system of supplementing the prisoner's daily allowance of ragi grain with a money allowance of a few pies, for buying firewood, vegetables, tobacco and other luxuries, was abolished as destructive of discipline.

Conditions during the Regulation period.

6. The present system of jail management has been described* as dating from the construction in 1863 of a new building for the Bangalore Central Jail, with accommodation sufficient for 1,000 prisoners.

The famine conditions of 1876-77 led to a large increase of crime, and the jails in the State were overcrowded, though they were largely emptied after the famine was over. Prison labour had by then become mostly intramural, and consisted of manufactures, gardening and public works.

One noteworthy feature was the introduction of the Mark System in 1879. This enabled well-conducted convicts to earn appointments as warders and work-overseers, as well as some remissions of sentence and small gratuities. Another was the beginning made in the direction of imparting education to illiterate prisoners.

Subsequent changes: number of prisons.

7. At the time of the Rendition of the State to the Mysore Royal House in 1881, there were eight jails in the State, one at the headquarters of each of the eight districts, besides a temporary one shortly afterwards abolished. Following the revision of districts and taluks in 1882-83 the number of District Jails was reduced from 8 to 3; namely, the Central Jail at Bangalore and the District Jails of Mysore and Shimoga. The District Jail at Shimoga was abolished on 1st June 1903, and a District Lock-up opened instead. In addition, there were Magisterial lock-ups at the headquarters of all the taluks and sub-taluks in the State, besides a special lock-up at the Kolar Gold Fields.

The jail at Mysore was converted into a sub-jail in 1933, as a measure of retrenchment, and all long-term convicts sentenced to six months or more were transferred to the Central Jail at Bangalore. But this so increased the number of long-termers in the Central Jail that the

* Lewis Rice, "Mysore, A Gazetteer."

jail at Mysore had to be revived with effect from 1st April 1939, in order to relieve the congestion.

During the second half of the year 1939, widespread political agitation created the necessity for much additional accommodation in the State prisons. The District lock-up at Shimoga was accordingly converted into a sub-jail, a new sub-jail was formed at Tirthahalli, and prisoners' camps were opened in Byramangala and Thippaganahalli. The last three have since been abolished, and the sub-jail at Shimoga reconverted into a District lock-up.

There were thus, at the end of December 1940, a Central Jail at Bangalore, a jail at Mysore, one special lock-up at the Kolar Gold Fields, six District lock-ups, and 27 Taluk lock-ups.

Control of Department. Charge of prisons.

8. The control of the prisons in the State was originally vested in the Chief Judge of Mysore, under the designation of "Inspector-General of Prisons." The Munsiffs were in charge of the lock-ups in their stations, and Amildars or Deputy Amildars of those elsewhere. This arrangement was altered by the transfer, in January 1897, of the Prisons Department to the control of the Senior Surgeon *ex-officio*, and by replacing Munsiffs in the charge of lock-ups by Medical Officers not below the rank of Sub-Assistant Surgeon with effect from April 1898. Amildars and Deputy Amildars were also gradually replaced by Special Sub-Registrars.

At present the Central Jail at Bangalore and the jail at Mysore are in the charge of full-time Superintendents, while the six District lock-ups and the special lock-up at the Kolar Gold Fields are in the charge of District Medical Officers, and the remaining 27 lock-ups in that of Sub-Registrars.

Laws and Rules.

9. The British Indian Act XXVI of 1870 (the Prisons Act, 1870) was extended to Mysore, with effect from 1st October 1879, by a notification of the Government of India dated 4th September 1879, and is still in force. Rules were framed under it from time to time in regard to matters of internal economy, discipline, expenditure, punishment and control. These rules have now been superseded by a comprehensive Jail Manual, prepared in 1917, largely on the basis of the Madras Prison Manual, and dealing with all the details of jail administration and management. Lock-ups are governed by a separate Lock-up Manual prepared at

about the same time. The transfer of prisoners from a jail to a lock-up is regulated by Rules corresponding to Sections 30 and 31 of the Prisoners' Act, V of 1871, introduced by a Government of India Notification of 8th November 1878.

Agreeably to the recommendations of a Committee appointed in 1936, the Government undertook legislation with a view "to make provision for the custody, trial and punishment of youthful offenders, for the establishment and regulation of Borstal Schools, for the detention and training of youthful offenders, and for the protection of children and young persons in Mysore." This, the Mysore Juveniles Act, XIV of 1939, was passed on 3rd July 1939, but has not yet been given effect to.

Arrangements for confinement of prisoners.

10. The practice of sending to the Andamans prisoners sentenced to transportation by the Courts in Mysore was stopped in 1882 owing to the heavy cost of their up-keep in the penal settlement. Such prisoners are now kept in the Central Jail at Bangalore.

By special arrangements, prisoners sentenced by the Courts of the Civil and Military Station, Bangalore, including those under trial and also civil prisoners, are confined in the Central Jail at Bangalore. Such prisoners as have been sentenced to more than one year's imprisonment are, after disposal of their appeal or on expiry of the appeal time, transferred to the Central Jail at Vellore.

Provision exists in all prisons for keeping female prisoners altogether apart from male prisoners and for separating juveniles from adult prisoners. Under-trial prisoners are likewise kept separate from convicted prisoners. Criminal lunatics are detained in the Mental Hospital at Bangalore. Civil prisoners are usually lodged in the two jails at Bangalore and Mysore and in the District lock-ups.

Special Class prisoners.

11. In the year 1930, the Government issued rules to enable the jail authorities, with the specific permission of Government in each case, to extend certain privileges to prisoners who, by reason of their status in life, their antecedents and the nature of the offences committed by them, might be considered as eligible for special treatment. The concessions allowed to a prisoner of the special class are in regard to the use of the diet ordinarily taken by him outside the jail, the use of his own clothing if available and, in its absence, of a dress different from that

of the ordinary prisoners, confinement in a separate ward, and the permission to read books, newspapers, etc.

Education and religious instruction.

12. Arrangements are in force in the Central Jail at Bangalore and in the jail at Mysore for the education of convicts, especially those of youthful age. The languages employed are Kannada and Hindustani; English is taught on a limited scale.

Provision for religious and moral instruction has also been made in both the jails. Every Sunday religious preachers of different denominations visit the jails for the purpose, and are given an honorarium of Rs. 10 each per mensem. For the benefit of prisoners in the Central Jail there are occasional entertainments in the shape of *hari-kathas*, *bhajanas* and dramas; and also addresses on ethical subjects by public-spirited and philanthropic ladies and gentlemen. Prisoners are allowed the use of books during leisure hours. The jails of Bangalore and Mysore possess libraries.

Visitors.

13. Besides the official visitors, among whom are included the Chief Justice, the Senior Surgeon, the Director of Public Health, Sessions Judges and District Magistrates, a number of non-officials have been appointed as visitors to the jails at Bangalore and Mysore.

The Mark and Ticket of Leave Systems.

14. The Mark System, originally instituted in 1879, was revised in April 1899. Meanwhile the Ticket of Leave System had also been introduced in March 1889, and revised in July 1892. The existence of this double set of rules led to complications, which were increased by the manner in which the amount of remission was regulated by them. Also, the grant of marks involved not only considerable labour but also much scriptory work. These difficulties were removed by the issue of a new set of rules, based largely on those issued by the Government of India and incorporated in the revised Jail Manual of 1917.

Convict labour.

15. The convicts under sentence of labour in the jails in the State are employed in cleaning and grinding ragi, on prison duties such as those of prison warders, prison servants and gardeners, in the preparation of articles for use or consumption in jails, and on industries such as pottery, cumbly-making, smithy, cloth-weaving, carpentry, rattan work, basket-making, tailoring, chuckler work, dhoby work, gunnybag-making, manufacture of woollen carpets, dyeing and book-binding.

Dietary, etc.

16. The scale of diet prescribed for prisoners in jails is given in Chapter XXII of the Jail Manual, Volume I.

The dietary for lock-ups was altered in January 1890, and further revised in March 1911.

The issue of curds to vegetarian convicts once a week was ordered in 1929. The supply of butter milk during summer months was sanctioned in 1937; and the concession was extended the following year to the issue of buttermilk twice a week throughout the year. Orders were passed in 1929 permitting of the issue of tobacco and snuff in moderate quantity to well-behaved and diligent convicts.

From the year 1939 prisoners have been supplied with aluminium vessels instead of earthen ones.

Advisory Boards.

17. The Government passed orders in 1926 constituting Standing Advisory Boards for the revision of the sentences of long term prisoners. The scheme was tried for a period of three years in the first instance, and thereafter made permanent.

Prisoners' Aid Societies.

18. To assist released convicts in finding suitable employment, a society called the "Mysore Discharged Prisoners' Aid Society" was formed in the year 1927, with its registered office in the Bangalore City. District Committees were also appointed in other places. Little tangible work is, however, being done at present.

SECTION B.

Enquiries into Prison Administration.

In British India.

19. The working of a large and complicated machinery necessarily brings to light the existence of defects and drawbacks which require to be remedied as best as possible. It also demands an occasional overhauling of the mechanism as a whole. As in Mysore, so elsewhere in India, changes in the details of prison management were made from time to time as the necessity was felt. But no comprehensive enquiry into the working of the system as a whole was thought of until April 1919, when, acting upon a resolution of the Imperial Legislative Council at Delhi, recommending that a "joint commission of officials and non-officials be appointed to investigate the whole subject of jail administration and to suggest improvements in the light of the experience of the West," the Government of India appointed an influential Committee of seven members including Sir Alexander Cardew as Chairman.

The Indian Jails Committee's Report.

This Committee went thoroughly into the matter, inspecting prisons and examining witnesses in England, Scotland, America, Japan, the Philippines and Hongkong, and after that in all parts of India and the Andamans. In a voluminous report published at the end of 1920, the Committee reviewed the whole system of prison administration, discussed several important questions of policy and practice, and made a number of recommendations for the improvement of jail conditions in India, and towards making them more uniform throughout the country. The report aroused great interest not only in Government and official circles, but also amongst the general public. What is more, it gave a great stimulus to prison reform, a subject which was already attracting a great deal of attention in western lands.

Action taken.

20. Several of the recommendations made in the Indian Jail Committee's Report were speedily put into practice in the different provinces. Some provincial Governments also subsequently appointed committees of their own to explore the possibilities of beneficial change. The accession of Congress governments in some provinces has led in recent years to increased interest in prison reform, as well as to practical action in various directions.

Committee appointed in Mysore.

21. The necessity for a comprehensive enquiry into the prison administration of the Mysore State is thus explained in the Order constituting the present Committee :—

> "The question of appointing a Committee with a view to examine the present working of the jails and lock-ups and suggest reforms for improving the same, has been pressed upon the attention of Government for some time past both in the Representative Assembly and the Legislative Council. A considerable period of time has elapsed since the subject of prison administration in India was subjected to comprehensive enquiry. The system in force in Mysore, which is more or less the same in essentials as in British India, has remained almost unchanged during the last twenty-five years and more. The Government consider that the time has arrived for a thorough overhauling of the machinery and methods in the light of experience here and elsewhere, and of progressive ideas as to the treatment of prisoners and the moral and deterrent effect of prison discipline."

Instructions to Committee.

22. The Committee was required "to make an enquiry into the whole matter of prison administration in the Mysore State, the efficacy of the existing system, and

any defects therein, and to suggest remedies and improvements on practicable lines."

Among other points falling within the scope of the enquiry, it was asked to consider certain matters of detail specified in the terms of reference.

Work of Committee.

23. The Order of Government was issued on the 6th March 1940. The Chairman entered on his work on the 15th idem; and shortly thereafter he met the local members for an informal consultation, and also paid a preliminary visit to the Bangalore Central Jail.

The first formal meeting was held on the 10th April to discuss the Committee's procedure and future line of work. It was resolved to issue a comprehensive syllabus indicating points on which it was desired to elicit information, criticism and suggestions from persons conversant with the subject. A Memorandum embodying this syllabus was published in the *Mysore Gazette* on the 18th April; *vide* Appendix I. A much shorter "Illustrative List of Points" on which suggestions would be welcome was sent to a few individual correspondents; this is printed as Appendix I-A. Copies of the Memorandum were also circulated to a large number of Government officers, to all the members of the Legislative Council and of the Representative Assembly, to various public Associations, to non-official visitors of jails and lock-ups, and to a number of other gentlemen including a few outside the State. The time limit for sending in opinions, originally fixed for the 1st June 1940, was afterwards extended to the end of that month; but opinions received afterwards were also taken into consideration.

24. The number of requisitions sent out exceeded 750; but replies were only received from 69 persons, whose names will be found in Appendix II. The response may at first sight seem disappointing, until it is realised how few persons, relatively, have a knowledge of prison conditions at first hand or are really in a position to make constructive suggestions. On the other hand, a glance at the names and descriptions of those who have actually responded to the invitation will give an idea of the extent and variety of practical experience upon which the Committee has been able to draw. The list includes persons who have been at the head of public affairs, or have administered important departments of State, or have had the management of jails and lock-ups, or have held medical

or mental charge of persons in confinement, official and non-official visitors of prisons, heads of districts, presiding officers of courts, educational officers, police officers, members of the bar, persons connected with the management of certified schools and prisoners' aid societies and criminal tribes organizations, missionary gentlemen, and social workers.

25. But the written opinions tendered have formed only a small part of the available material. A number of persons were invited to appear and assist the Committee with their oral evidence. Most of them had already furnished statements in writing, but a further examination was considered necessary by way of clarifying or supplementing the written opinions, or eliciting additional information. The examination of witnesses occupied three sittings, covering seven days in all, during the period between 10th July and 15th November. The names of the witnesses examined, eighteen in number, are given in Appendix III. Of these, six were officers in service and six retired officers, all of them closely associated, in the present or the past, with the charge of prisons or mental institutions or with health administration. Six were non-official gentlemen, of whom three had been in prison at some time, and the rest were actively interested in problems connected with reformation and reclamation.

26. The Committee visited the following prisons within the State in the months of May, June and July 1940:—

The Sub-Jail at Shimoga.
The Sub-Jail at Tirthahalli.
The Prisoners' Camp at Byramangala.
The Jail at Mysore.
The Prisoners' Camp at Thippaganahalli.
The Central Jail at Bangalore.

At each institution visited, detailed enquiries were made into its working ; and in addition to the examination of the officials, prisoners were also questioned as to their treatment and general condition and requirements.

27. Having regard to the expressed desire of Government that prison machinery and methods should be overhauled in the light of experience and of progressive ideas here and elsewhere, the Committee, with the concurrence and approval of His Highness' Government, and with the generous co-operation of the provincial

Governments concerned, made two short tours in the Madras and Bombay Presidencies. The first, in the latter part of September 1940, occupied ten days, and the second, early in January 1941, likewise ten days—inclusive of journeys. The institutions selected for visits represented such different types as Central Prisons for Habitual, Casual and Female Prisoners, Borstal Schools, Certified Schools, Children's Homes, both Industrial and Agricultural, Remand Homes, Rescue Homes, Criminal Tribes Settlements, and Discharged Prisoners' Aid Societies. A full list of institutions visited within and outside the State is given in Appendix IV.

It would not be easy to exaggerate the value and importance, for the work of the Committee, of the data collected and the impressions gathered during these visits, each of which usually occupied several hours of a working day. The authorities and officials in all the institutions visited were extremely obliging and helpful, and ready to place all available information at the disposal of the Committee. It should hardly be necessary to emphasize that a study of the working of institutions on the spot has a distinct purpose and value of its own, apart from reliance on other people's impressions, or the reading of books and reports. The time, trouble, and expenditure involved is more than repaid by the opportunities for first hand experience and the adjustment of view points to actual conditions.

28. Between the 15th November 1940 and 26th February 1941, the Committee met five times to discuss the various questions of principle and policy, as well as of detail, arising out of the enquiry. The draft Report embodying the final views and recommendations of the Committee was considered at the concluding sitting on 31st March 1941, and accepted and approved. The Report was thereupon signed by all the members.

Acknowledgments.

29. Now that our work on the Committee is over, we should like to express our indebtedness to all those who have favoured us with facts and opinions, orally or in writing, or have otherwise assisted in the conduct of the enquiry. There is a debt which cannot be properly acknowledged to the mass of information contained in books, pamphlets, and reports, and even the fleeting references to matters of interest contained in journals and the daily press. Facts and opinions likely to contribute to an intelligent understanding of the subject have been

freely drawn upon, and in many cases have become so assimilated that it is not always easy to recognize the sources. It is sufficient to say that, without the material and the help and suggestions derived from so many different quarters, the preparation of this report would not have been possible.

Grateful acknowledgments are due to the Government Secretariat and to the office of the Inspector-General of Prisons for the readiness with which references and other information available were supplied, and to the Government Press for the neatness and expedition with which it has executed work sent on behalf of the Committee.

Finally, the Committee desires to record its cordial appreciation of the valuable services rendered by the Secretary, Mr. B. K. Ramakrishnaiya, during the whole period of the Committee's work, as also its recognition of the efficient manner in which the members of the staff have discharged their duties. Particular mention must be made of the thoughtful arrangements made by the Secretary for the tours of the Committee both within and outside the State—arrangements which contributed not a little to the satisfactory achievement of their purpose.

Frame of Report.

30. The nature of the enquiry committed to us, covering as it does the whole field of prison administration, has necessitated consideration of a large number of topics, many of them points more or less of detail, others of a more general character. For convenience of treatment, the matter dealt with in the Report has been analysed and arranged under a number of chapters, the connection between them being, roughly, as indicated below :—

First, Prisons and Prison Buildings. (Chapter II).

Secondly, the Prison Population, and its various classes. (Chapter III).

Thirdly, the Treatment of Prisoners, including their Employment, Discipline, Reformation, and Physical Well-being. (Chapters IV to VIII).

Fourthly, Release from Prison (unconditionally and on conditions), and Aid and After-care. (Chapters IX and X).

Fifthly, Special Cases, namely, those of Juveniles and Adolescents, Recidivists and Criminal Tribes. (Chapters XI, XII and XIII).

Sixthly, Prison Administration and Visitation. (Chapters XIV and XV).

Seventhly, Some Trends in Penal Reform. (Chapter XVI).

The principal points on which action is recommended in the Report are indicated in a general summary given at the end. The last chapter, which attempts a rapid survey of some current trends in penal reform, deals with important general questions of principle and policy, which, however, do not necessarily lend themselves to enunciation as specific recommendations for present action, except in respect of a few matters included in the summary.

This is followed by a short list of suggestions as to amendments which may be made with advantage in the existing Rules, over and above those which would be directly consequential on the acceptance of the Committee's recommendations.

CHAPTER II.

Prisons and Prison Buildings.

SECTION A.

Prisons.

The Prisons Act, 1870.

1. The law relating to prisons in the Mysore State is the old Indian Act XXVI of 1870, introduced by a notification of the Governor-General in 1879, two years prior to the Rendition. It has not been amended or revised subsequently.

As we shall have occasion to point out more than once in the course of this Report, the Act is defective in various respects, and has become out of date. It should be replaced at an early date by a more comprehensive measure adapted to the present time. As a help to its preparation, we append to this Report a draft Bill, based on the provisions of the law now in force in British India—Act IX of 1894 (Appendix V).

Definition of "Prison."

2. The old Act defines the term "prison" as meaning any jail or penitentiary, but this does not carry the description far enough. The definition in the later British Indian Act is more specific. Under it "prison" means any jail or place used permanently or temporarily under the general or special orders of Government for the detention of prisoners, but does not include any place for the confinement of prisoners who are exclusively in the custody of the police or any place declared to be a subsidiary jail.

Classes of prisons in British India.

3. Jails or prisons in British India are of three kinds, namely, Central Jails, District Jails, and Special Jails.

Prisoners sentenced to imprisonment for periods of one year and upwards as well as those sentenced to transportation are confined in the Central Jails. Prisoners sentenced to imprisonment for periods of less than twelve months may also, subject to the orders of the Inspector-General, be confined in them.

The prisoners to be confined in the District Jails are ordinarily those sentenced within the district to imprisonment for periods exceeding one month and less than twelve months, as also civil prisoners of the district and persons committed for trial to the Sessions Court.

Special Jails are institutions for the reception of special classes of prisoners, such as female prisoners, and prisoners suffering from tuberculosis.

Categories of prisons in Mysore.

4. The prisons in the Mysore State fall under a few categories, according to the class of prisoners for whom they are intended and the areas from which these have been received. Thus the Central Jail at Bangalore is the ordinary place of confinement for prisoners sentenced to death or transportation in any part of the State, for prisoners sentenced to imprisonment for any term in the Bangalore City and for over a month in all the Districts except Mysore, Mandya and Hassan, and for juvenile prisoners sentenced to imprisonment exceeding a month in any part of the State.

5. The Jail at Mysore is classed as a District Jail. It is intended for prisoners sentenced to imprisonment for any term in the Mysore, Mandya and Hassan Districts, and for over a month in the Mysore District outside the Mysore City. Persons sentenced to death within the Mysore District are also latterly being detained in this Jail.

6. Outside of Bangalore and Mysore Cities, prisoners sentenced to imprisonment for one month and under, and persons awaiting trial or preliminary investigation before the Magistracy, or trial before the Courts of Session, are confined in what are known as magisterial lock-ups. Six of them, being situated at the head-quarter towns of Districts, are styled District Lock-ups, and the remaining twenty-seven as Taluk Lock-ups. The lock-up at Champion Reefs on the Kolar Gold Fields ranks between a District and a Taluk lock-up, and has a staff and equipment corresponding to the special requirements of its environment and population.

7. In addition, there were until recently two sub-jails, so-called, at Shimoga and Tirthahalli, which have been since abolished. The influx of political prisoners in recent years led to the opening of two temporary camps at Byramangala and Thippaganahalli; both have been recently disbanded.

8. The average number of inmates in each of the main prisons, based on the figures for the three calendar years 1937, 1938 and 1939, is as follows:—

Bangalore Central Jail	....	....	862
Mysore Jail	....	....	147

The corresponding figure for all the Magisterial lock-ups in the State is 229. That for the special lock-up at the Kolar Gold Fields, separately, is 32.

Suggested classification: Central and District Jails.

9. In place of these various classes and designations, it seems desirable in future to have two main classes of criminal prisons. The first class may be called "Central Jails," of which there should be two,—one intended exclusively for the detention of persistent habituals, and the other in which all persons, other than persistent habituals, sentenced in any part of the State to imprisonment for six months and over may be confined. The second class may be called "District Jails," of which there may be three, one at the headquarter town of each Sessions Division, for the confinement of persons sentenced to less than six months' imprisonment within the districts comprised in the division.

Subsidiary Jails.

10. The present magisterial lock-ups will then be used solely for the detention of under-trial and remand prisoners and those committed for trial. These may be designated as "Subsidiary Jails" or sub-jails, a term now loosely employed to denote places where both under-trial prisoners and short-term convicts are detained.

11. Assuming (for reasons to be set forth in a later chapter) that in future no sentence of imprisonment will be for less than a month, it is recommended that no convicted prisoners should hereafter be detained in a subsidiary jail. This will remove all difficulties regarding the separation of convicted from unconvicted persons. It will render it unnecessary to make any provision for the exaction of labour. There will also be incidental savings in establishment and maintenance charges, which will *pro tanto* reduce the additional cost on account of the district jails.

Police Lock-ups.

12. The term "Lock-up," which is not recognized by the Prisons Act, and is not used in British India in relation to the institutions we are considering, may hereafter be exclusively applied to places for the detention of persons in police custody, as to which the laws and rules relating to prisons do not apply. It is for many reasons

undesirable that any prisoners, and especially those on remand or committed for trial, should remain in the custody of the police. No prisoner should be kept in a police lock-up pending investigation, except by virtue of an order authorizing his detention under section 167 of the Criminal Procedure Code.

Central prison for casuals.

13. The advantages are all in favour of collecting in one central prison all casual offenders with sentences of six months and upwards, and also all long-term prisoners not being habitual or incorrigible criminals.

This will allow of large-scale economies in establishment, building costs and recurring charges of upkeep and repair, and the cost of maintenance of the inmates. It will render possible the development of prison industries on business lines, and enable labour and machinery to be fully utilized and with a minimum of waste. It will facilitate arrangements for instruction and vocational training, and conduce to more thorough supervision and control from above. Finally, it will afford material facilities for scientific equipment and medical, sanitary and psychiatrical attention and research.

So considerable are the economies capable of being thus effected that, taken together, they must outweigh the extra expense in transferring prisoners under escort to the Central Jail.

14. The present Central Jail at Bangalore is intended to accommodate about 1,000 prisoners. There were 1,185 prisoners in all in that jail at the close of 1939, of whom 1,066 were convicts, 117 were under-trials, and 2 were civil prisoners. Among the convicts, 302 were first offenders, and 764 were persons with more than one conviction. The percentage of these two classes to the total convict population was, respectively, 28 and 72. We have not been able to ascertain how many of those with previous convictions are "habitual offenders" in the proper sense.

15. There is complete unanimity of opinion among all acquainted with prison conditions that first or casual offenders should be effectively separated from confirmed habituals, that the best arrangement is to have separate prisons for these classes, and that juveniles and adolescent offenders should not be confined in prison at all, but detained in special corrective institutions as contemplated in recent legislation.

Youthful prisoners.

16. The present arrangements for the confinement of youthful prisoners in the Central Jail at Bangalore are far from satisfactory. The juvenile block is only divided from the regular or convict barracks by wooden palisades which do not provide effective separation. The rigid separation required by the rules as between them and the older prisoners is quite impracticable in the existing type of buildings both there and in the District Jail at Mysore; neither does it obtain as a matter of fact. They can and do mix together at various times, as when going to the worksheds, or when brought to the office or to courts, or when taken to hospital for treatment.

17. The youthful offenders confined in the Central Jail come from all parts of the State. They are generally persons sentenced to short terms, they get timely meals, and they often find prison life quite endurable if not enjoyable. They are exposed to undesirable influences from the older and more hardened prisoners around them. They are placed at night under the charge of convict officers, a particularly objectionable practice in their case.

18. Prisoners below the age of twenty-one should not be allowed to associate with the older men, but kept, as in English prisons, in a class of their own.

19. Till such time as the special institutions required for juveniles and adolescents are duly established and come into working, we recommend that all offenders under the age of eighteen years now under confinement in both the jails be removed to some place where suitable temporary accommodation may be made available. First offenders between eighteen and twenty-one may for the present be retained in these jails, but in a distinct block properly divided and separated off from the regular convict barracks.

Female prisoners.

20. Having regard to the small number of women prisoners, particularly that of convicts, whose daily average was 29 in 1937, 24 in 1938, and 29 in 1939, for the whole State, there is, as we shall indicate later, no immediate need for a separate prison for them. They may be confined in the Central Casual Prison, but in an entirely independent block quite outside the regular barracks. But among the female prisoners, it must be arranged to keep the adolescents entirely apart from the adults, whose influence, even if they are not actually persons of immoral life, must be harmful to the young offenders. Females belonging to the criminal tribes and convicted of offences

against property form a type of hardened criminals, and should be effectively separated from the rest and confined in a separate yard.

Other prisoners.

21. There need not be a special prison for political offenders or persons convicted of offences against the State. These should, however, be confined in a separate block of their own within the Central Casual Prison. Civil debtors should be confined by themselves in a distinct ward attached to the respective district jails.

Number of persons to be collected in a central prison.

22. In order that due attention may be given to individual prisoners, it is necessary that the number of persons collected in a central prison and entrusted to the care of a single Superintendent should not be excessive. The Indian Jails Committee considered that the maximum number of prisoners in one prison should be fixed at 1,000, and that even 750 would be a better maximum. We are not likely at any time to exceed these figures either in the Casual or in the Habitual prison.

Persons to be confined in District Jail.

23. The total number of convicts detained in the various jails and lock-ups in the State, on the last day of the calendar years 1937, 1938 and 1939, amounted respectively to 910, 810, and 1,743. Of these, 368, 294, and 785 had sentences of less than six months. The number of *admissions* in the course of a year must of course be much larger.

A large proportion of convicted prisoners consists of unskilled, floating, short-term convicts. While there is no objection in principle to confining short-term prisoners with sentences below six months in a Central Jail, and utilizing their labour for such ordinary jail services as cooking, scavenging, etc., there is otherwise no particular advantage in keeping them there. It will be far more convenient to concentrate them in the District Jails. The transporting of short-term prisoners to and from the Central Jail would also entail disproportionate cost. Such prisoners may work out their sentences in the appropriate District Jails, where they may be put on to labour of a kind appropriate to their cases and available in such jails.

Persons to be confined in Subsidiary Jails.

24. The Subsidiary Jails should accommodate exclusively persons accused of having committed offences, whose trial has not commenced or concluded. It is contrary to generally accepted principles to put prisoners sentenced even to short terms of imprisonment along with remand and under-trial prisoners in the subsidiary jails. If it is undesirable to keep convicts and

unconvicted prisoners together in the Central and District Jails, even in separate blocks, it is even more so within the confined area and surroundings of the sub-jails.

Accommodation required.

25. In the event of the establishment of a separate prison for persistent habituals, accommodation will have to be provided for an average of 400 persons, or a maximum of 500, for the whole State. The Bangalore Central Jail, which will be the principal casual jail for the State, need not ordinarily provide for more than 800 convicted prisoners at the outside. There should be room, of course, for any temporary expansion required in extraordinary conditions; but such contingencies are likely to be rare.

Each district jail should have sufficient accommodation for 200 prisoners.

Each sub-jail should similarly accommodate 15 prisoners at the outside, except the sub-jails at Bangalore, Mysore and the Kolar Gold Fields, where accommodation will be required for as many as 50 prisoners. The accommodation in a sub-jail should consist of a number of separate cells for the confinement of prisoners singly.

SECTION B.

Prison Buildings.

Bangalore Central Jail.

26. The Central Jail building at Bangalore was constructed over three-quarter of a century ago. The question of removing it from its present site to a more suitable one outside the municipal limits of the City has been under consideration for a number of years. Plans for a new building were prepared and considered at various times, but financial objections based on the heavy cost involved prevailed on every occasion, with the result of the project being shelved for the time.

A separate Note tracing the history of the question from the beginning was submitted to Government with certain interim recommendations of the present Committee on 18th November 1940.

Condition of buildings.

27. The whole matter has been gone into by the Committee after a careful inspection of the jail and its surroundings. The structure as a whole is very old and dilapidated, and therefore in constant need of repairs, entailing a substantial expenditure

year by year. The lighting is quite insufficient; the roofs, mostly of tiles, harbour bugs and scorpions; and so do the walls, which are full of cracks, crevices and corners. The buildings in fact cannot be properly repaired or renovated except at quite disproportionate cost. The materials if pulled down will not be worth much, but may be used as far as they will go towards other constructions.

Grounds.

28. The site itself is very valuable, and will fetch a large price if sold or taken up for town improvements or official purposes—a point that should not be lost sight of when weighing the financial aspect of constructing a new Central Prison. Against the cost involved should be fairly set the value of the lands already acquired, and those still remaining available, out of the grounds pertaining to the jail.

29. These grounds originally covered an area of 52 acres, out of which about 30 acres were used for cultivation. But with the acquisition of about 28½ acres from time to time, partly for University purposes and partly for the formation of the Gandhinagar extension and connected improvements, the jail is now left with only about 23½ acres. But the greater part of even this is occupied by buildings, yards, pathways and open spaces; and barely three acres are actually fit for a vegetable garden. The idea of employing prisoners on agricultural operations is of course out of the question.

Undesirability of present location.

30. Apart from all this, it is distinctly undesirable to continue to have the chief prison of the State in the heart of the City, and in close proximity to courts, offices and educational institutions. It is bound to have an unhealthy psychological influence on the minds of the public, and especially on the younger generation. A little commotion inside the jail is apt to attract a curious crowd outside and lead to excitement; and ugly situations may sometimes arise likely to embarrass the jail authorities. Prohibited and contraband articles, like sweetmeats, *beedies*, cigarettes, ganja and even money, are frequently smuggled in by friends of the inmates by being thrown over the jail walls.

It is not one of the least inconveniences now felt that there is no parade ground for the jail staff for training in drill and musketry, and that the lower subordinates have no residential quarters.

Early removal to new place recommended.

31. It is not necessary to labour the point further except to urge that an early decision should now be

reached as to the removal of the Central Jail, once for all, to a convenient place quite outside the City, where new premises may be built according to pattern and to suit essential requirements. It is not possible, in the absence of detailed plans and estimates, to forecast accurately what the eventual cost may be. It certainly ought not to approach the estimate of about fourteen lakhs arrived at on a previous occasion. We rather think that, with a less elaborate design and with accommodation limited to the smaller population which will require to be confined, the cost ought not to exceed five or six lakhs ; and even this amount will, no doubt, in the process of construction, be spread over a period of three or four years.

Separate prison for habituals.

32. We would strongly recommend in this connection that the opportunity of constructing a new Central Jail be taken to isolate the confirmed and incorrigible habitual criminals altogether from the reclaimable part of the prison population. This must be done by means of a separate prison for the former in a healthy spot at some distance from populated localities and, if possible, in predominantly agricultural surroundings. We do not know if the present Shimoga jail has sufficient cultivable land around it to serve the purpose, and the district itself is generally believed to be malarial. If the idea of establishing a Habitual Prison is acceptable to Government, it will no doubt be possible to choose a place satisfactory from all points of view in any of the other districts.

Accommodation to be provided in Central Casual Jail.

33. Since juveniles and adolescent offenders must be incarcerated in separate institutions of their own, removed altogether from association with a prison proper, the new Central Jail at Bangalore will, to all intents and purposes, be a *Casual Prison*, with separate blocks for the various classes of prisoners. Ws shall deal later in some detail with the requirements of these various classes.

34. With the reduction in prison population that will be effected as the cumulative result of the isolation of habitual criminals in a separate prison in the interior, the provision of special reformatory institutions for juveniles and adolescent offenders, and the relegation of under-trial prisoners to subsidiary jails, the number to be accommodated in the new Central Casual Jail will be reduced to something between five to seven hundred persons. This, as a matter of fact, is generally considered to be the ideal strength for a penal institution combining individual attention to prisoners with economic management.

35. It may here be stated that the alternative of having both the prisons, the one for habituals and that for casuals, in the same place, that is, in Bangalore, in buildings placed at some short distance from each other, has not been overlooked by us. But we do not think there would be any economy worth speaking of in such an arrangement. Neither the administrative nor the subordinate executive or clerical staff can be in common between the two institutions; nor, for that matter, can the bulk of the technical staff, barring one or two, such as the psychiatrist and the industrial expert. The same medical men cannot well attend to the medical work of both. Each must have its separate dispensaries and in-patients' wards and quarantine and segregation blocks, its separate kitchens, and, of course, its independent cells, barracks and yards. The workshops and industrial fittings and machinery must also be distinct; and so is the land on which outdoor work will have to be carried on. The differences in the modes of treatment in such matters as discipline, labour and reformation, also negative any possible advantage in placing the institutions side by side.

Inadvisability of having both the prisons in same place.

36. In the selection of a site for the new Central Jail at Bangalore, there are certain considerations which have to be borne in mind. Authoritative opinion at the present day is opposed to the location of big criminal prisons in the heart of populated towns. A new prison should be built well beyond the outskirts of the City, in a detached spot where the prisoners would be completely separated from the outer world, and where there would be little or no disturbance from or to the outside population. A prison situated in the open country may more easily become self-supporting, even if in part, through growing vegetables and paddy, ragi and other crops with jail labour. It is desirable, therefore, in every way to have annexed to the new prison a sufficiently large extent of land on which prisoners could be employed on outdoor work, more particularly of an agricultural character. On the other hand, there must be a good road connection with the City, so that lorries with food-stuff or other material, transport vans for prisoners, and reinforcements for the guards in cases of emergency, may reach it in a short time. In the selection of a proper site, the convenience too of the staff should not be overlooked. A well-qualified and contented personnel cannot be obtained if the work means virtual imprisonment for the

Considerations governing selection of site for Central Jail.

staff. The site should, accordingly, be within four or five miles of the City.

For reasons alike of health as of safety, the actual situation of the buildings should be on open and high ground, with abundant provision for drinking water and facilities for satisfactory drainage.

Requirements of new prison.

37. As regards the extent of land to be reserved, regard must likewise be had to the probable requirements of a new prison of the type we have in view.

First, there is the space within the enclosing wall, which should provide for the following among other purposes:—

(*a*) Buildings to accommodate the prisoners;

(*b*) Workshops for prison-industries, and store-rooms for raw materials and products, as well as a central show-room for saleable articles;

(*c*) Kitchen buildings and covered places for serving meals;

(*d*) Latrines, bathing yards and drying places;

(*e*) Administrative offices, property rooms, disinfection rooms, visitors' rooms, school rooms, library, etc.

(*f*) Guard rooms;

(*g*) Open yards for drill, for parades, and for airing clothes and other articles;

(*h*) Vacant spaces where temporary barracks could be put up in case of need, to prevent overcrowding.

Putting at a thousand the maximum prison population (normally as well as in times of emergency) for which accommodation will have to be found, and taking the number of free persons constantly employed within the prison roughly at 200, and allowing a minimum ground area of 100 square yards as moving space for each, this gives an enclosed area of about 25 acres.

Secondly, sufficient space outside the enclosing wall will be required for quarters for the warders and for the prison staff, who must live very close to the entrance to the jail. This may be put at about ten acres.

Thirdly, the requirements of a vegetable garden have to be met. If the prison is to be self-sufficient in the matter of vegetables, an area of not less than 25 acres must be deemed essential for the purpose.

Fourthly, a considerable additional extent outside of, but in close proximity to, the prison walls will be required in case regular agricultural work is undertaken. This

extent must be put at not less than about 40 acres, at the rate (roughly) of 5 acres for every hundred prisoners.

Fifthly, in view of the tendency for bazaars to spring up in the neighbourhood of a jail, it is advantageous from all points of view to include a reasonably large radius round it as jail property.

On the whole, we think that an area of at least 120 acres should be acquired and set apart for the new Central Jail at Bangalore.

38. On the same scale, a minimum area of about 75 acres would be required for a new Habitual Prison with accommodation for about 400 convicts; but if the labour on which these men are to be put is mainly agricultural, the extent of land needed will be rather larger.

Land recommended as site.

39. Bearing these various considerations in mind, and after weighing the merits of alternative localities, we have no hesitation in recommending the open land to the south-east of the Mental Hospital, and immediately adjoining its grounds, as being in every way excellently adapted for the purpose of the new Central Jail at Bangalore. This land, marked 'A' in the tracing from the village map submitted with our interim recommendations, is in shape roughly a square, and comprises 136½ acres in all. It is bounded on the north by the high road from Bangalore City to Hosur, and on the east by the road to Bannerghatta; and on the extreme south there is an irrigation tank. It is situated quite a furlong from the inhabited village of Byrasandra on the west, to which it belongs. On the other hand, it is far enough away from the City, but easily accessible; and it contains a sufficient extent of elevated ground fit for buildings, and ample space on lower levels suited for a vegetable and agricultural farm as an annexe to the prison. The municipal water-supply and the electric installation can be easily extended from beyond the Mental Hospital. Among the advantages of contiguity between the two institutions is the fact that the quarters for the officials of both may be placed near each other.

On the other side (*i.e.*, to the east) of the Bannerghatta road is another eligible site (marked 'B' in the sketch). This comprises 118 acres, some belonging to Byrasandra and some to Suddaguntepalya. Being mostly high ground, it is well suited for buildings, but there is apparently not enough low ground adapted for gardening

and cultivation. Also it is somewhat far away from the Mental Hospital.

Points to be kept in view in designing new prison.

40. It is not within our province to deal with the architectural features of a new prison building on model lines. But there are certain important matters of detail which we think must be kept in mind in the preparation of a suitable design.

One is that the blocks should all be arranged round a tower in the centre, on the well-known "Panoptic" system, so that the buildings as well as the free space between them, together with the compound wall surrounding the whole, can be overlooked from the central tower.

The enclosure between the different blocks should be formed, not of brickwork or wooden palisades as in the present Central Jail, but of steel rods sufficiently high.

41. The question of the relative advantages of the cellular and dormitory systems in modern prisons will be dealt with later. Here we may note briefly that, so far as habitual criminals are concerned, the preponderance of advantage is in favour of the unicellular system. The necessity for keeping apart prisoners undergoing trial, whether in the same or in different cases, also requires that the accommodation in subsidiary jails should be entirely cellular in character.

42. But in a casual prison, where the separation of the various classes in distinct blocks of their own is, as it should be, rigidly enforced, there is no particular advantage in going further and putting each individual prisoner in a cell by himself. Economy as well as convenience will be promoted by the necessary accommodation being provided in barracks, with, however, a sufficient number of single rooms for special cases, such as those of unsociable or troublesome convicts and persons in indifferent health.

43. The barracks should not be unwieldy as in some existing jails, but just sufficiently large to accommodate about twenty men in each. Each barrack should have a verandah where prisoners may eat their food or take shelter from the sun and rain.

The sleeping berths in the new type of barracks should be of a standard size of seven feet by two and a half feet, raised to a height of two feet above floor level if on the ground floor and six inches if on a first floor. A portion of the berth next to the wall about a foot in breadth should be raised by a few inches and rounded so as to serve as a head-rest.

With two such rows of sleeping berths, each berth separated from the one on either side by a moving space of three feet in width, and with a clear passage of six feet width between the rows, this would make the floor about 55 feet long and 20 feet broad. Taking the height of the walls at not less than 12 feet, each room will have a capacity of 13,200 c.ft. and yield not less than 600 c.ft. of breathing space for each inmate.

To allow ample ventilation and outside lighting, the openings in the walls should be about a fifth of the total floor area.

44. Terrace roofs well plastered with cement are preferable to tiled roofs, as being cooler and also not so apt to harbour bugs, besides being stronger and less capable of being broken through.

45. Every barrack should have a flush-out latrine for use during nights, in addition to the general flush latrines for the day-time. Cage latrines are indecent and unæsthetic and only one degree more tolerable than the horrid makeshift of night-soil receptacles now in use.

The water-carriage system should, wherever possible, replace that of the periodical removal of contents.

46. The lighting arrangements should be such that sufficient light is thrown into each room, while the source of the light is out of the reach of the prisoners.

47. Provision should be made for a receiving department where prisoners may be classified before being sent on to the appropriate blocks.

48. The quarantine yard must be so near the main gate that prisoners on arrival can go straight into it without traversing more than a minimum part of the jail. The accommodation here should be entirely cellular, so that, if a case of infectious disease does occur, the chances of other prisoners receiving the infection may be as far as possible reduced.

The hospital yard should be placed near the main gate, and should, if possible, have direct communication with the quarantine yard.

There should be a separate mortuary and post-mortem room. This, as well as the isolation ward, should be at some distance from the hospital.

A burial or cremation ground should be provided quite away from the built portions of the prison.

49. The female ward should be so situated that it can be reached without entering the portion of the jail reserved for males.

50. Store-rooms should be near the main gate, in order that carts bringing in bags of grain and pulse or other articles shall not have to go farther into the jail than can be avoided.

51. The main entrance to the jail should be protected by two gates, an inner and an outer, with sufficient space between the gates to enable at least two bullock carts to be halted. The offices of the jail can be grouped on each side of the inter-gate space.

52. It may not be superfluous to add, finally, that the general aspect of the whole premises should be institutional and stimulating, and not repellent and depressing as it so often is in existing prison buildings.

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CHAPTER III

Prison Population.

SECTION A.

Classification and Separation.

Classification and its importance.

1. The importance of the due classification of prisoners, along with the separation of one class from another, is an accepted principle of prison administration.

Objects of separation.

2. Classification is a necessary preliminary to separation; and separation has for its objects, first, the prevention of the spread of debasing influences from one class of prisoners to another, and secondly, the differentiation of treatment according to individual character and criminality. The first is negative, and the second is positive, in aim. Both are important; but it is likely that, in the future, classification will tend to become primarily a medium for the facilitation of training even more than for the prevention of contamination.

Prevention of contamination.

3. To take the negative object first, the law requires the separation of female from male prisoners, children under a certain age from older prisoners, under-trial prisoners from convicts, civil from criminal prisoners, and so on. But so long as the various classes of prisoners are all accommodated in the same prison, no rigid or effectual separation is possible. There is always the possibility of harmful contact, and experience shows that prisoners of all classes do as a matter of fact mix more or less freely at various times.

Quarantine arrangements.

4. It may be noted incidentally that prisoners undergoing quarantine on admission are allowed to mix and live together for over a week irrespective of the requirements of classification. This is very undesirable. Provision should be made for the separation of the different classes from the very commencement.

Contact between casual and habitual offenders.

5. In the case of habitual and casual offenders, in particular, it is clear that, whatever be the precautions taken to keep them apart, there will always be some chance of their contact with each other in the daytime, during labour, in the worksheds, in hospital, and so on.

Experienced jail officers, present and past, are agreed that it is in jail that first offenders make friends with habitual criminals, and after release assist them in committing crimes, thereby becoming habituals themselves.

Many casuals are first offenders, and of these again, a large proportion are accidental offenders. Such men should not be allowed to come into contact with deliberate or habitual offenders, if contamination is to be prevented. They must be taken in hand betimes, and not be allowed to learn criminal methods from those who have practised them for years and pride themselves on the fact.

Separate prison for habitual offenders.

6. The effective segregation of the younger offenders and the beginners in crime from those more experienced is a penal reform of the first importance, and it is only possible through the provision of a separate prison for habitual offenders. This reform is one on which the Indian Jails Committee laid the greatest stress; and it has already been introduced in British India. In this State also, proposals for the confinement of these different classes in separation have been under consideration for several years, but have had to be deferred for reasons mainly of cost. We venture to think that no financial consideration should be permitted to stand in the way of its very early adoption.

Differentiation of treatment.

7. Classification with a view to appropriate treatment must take account of age, sex, mental calibre, and moral development, as also the nature and circumstances of the crime. The sentence awarded is usually indicative of the offender's moral turpitude and legal responsibility in the eyes of the court.

Apart from these personal and circumstantial factors, there are adventitious facts, such as social status, class distinctions, and political or personal influence, which may warrant relaxations and concessions but ought not to affect the question of classification for discipline and training.

Where Boards of Visitors have been duly constituted, their suggestions may often be helpful in doubtful cases.

Differentiation in treatment naturally involves differences in forms of labour, discipline and instruction, as well as a difference in the atmosphere and surroundings.

Progressive stages.

8. Under the system of "progressive stages" obtaining in England, the individual prisoner is enabled to earn increasing privileges as reward for industry and good

behaviour. The term of sentence is divided into three stages of discipline. The first, which lasts for three months, is spent virtually in separate confinement.

The second is for six months, during which the prisoner enjoys the privilege of attending lectures and classes, and becomes qualified to earn money by his labour.

In the third stage, he becomes eligible for the maximum privileges, and has the opportunity of associating with the other men during a considerable part of the day, only returning to his cell to sleep.

The progressive stage system is working well in England, and has produced excellent results. The underlying idea is a simple and practical one, and there is no reason why the system should not be adopted here with advantage.

Responsibility for initial classification.

9. In England, classification is regarded as a matter for the prison administration, and one which cannot, in present circumstances, be effectively undertaken by the courts. According to the view there taken, the evidence before the Court is that of the crime, rather than of the character of the offender; but the nature of the crime is by no means an infallible guide to the offender's moral and mental condition.

In India, however, the classification is usually left to the courts and the magistracy, for the reason that they are in the best position to give the various factors their due weight, and also because prison authorities have usually no additional or independent data at their disposal on which to base a decision. Also, they would themselves in many cases prefer not to have a discretion in the matter, lest its exercise might lead to misunderstanding between the prison staff and the prisoners.

Sub-division into star and ordinary classes.

10. These considerations, however, apply only to the initial classification made when the prisoner is first received in jail.

But there is a further classification, which has to be made in prison and as to which the courts can only make a recommendation for the assistance of the prison authorities, and that is the sub-division of the large class of casual or first offender convicts into "star" and "ordinary."

The "star" class comprises such prisoners as are selected by the Superintendent on the ground that their previous character has been good, that their antecedents

are not criminal, and that their crimes do not indicate grave cruelty or gross moral turpitude or depravity of mind. Many of these prisoners are men who have committed murder or other similar crimes on impulse or as the result of wrong social customs and have received very long sentences.

One or more previous convictions would not exclude a prisoner from the star class, if they were for petty offences. Even a conviction for serious crime is not to be regarded as a bar, if it was committed several years before and if, during the intervening period, the prisoner has led generally an honest life.

Consequences of sub-division.

11. Such a sub-division, based on the principle of the segregation of the better from the worse, is already in force in British India, and seems eminently fitted for adoption in Mysore. Its value lies in the opportunity it gives to concentrate training on those who are *prima facie* most likely to profit by it, and to model it to some extent on corrective and reformative principles. Far from leading to jealousy or ill-feeling among prisoners, it is an inducement to good conduct and a spur to emulation.

The effect of being placed in the star class applies only to segregation, which extends to sleeping accommodation and parades and, as far as possible, to labour. But there will be no indulgences in regard to diet, labour, remission, gratuity or otherwise. The scheme of training, as carried out in some of the casual prisons in England like the one at Wakefield, is a very vigorous one, embracing physical, industrial, mental and moral discipline. Every prisoner has an active day of about fifteen hours, of which eight are spent in the industrial shops and working parties.

Special circumstances.

12. We shall refer in another place to a further division of prisoners rendered necessary in order to adjust treatment to special circumstances, in such matters as accommodation, diet, clothing and bedding, facilities for reading and newspapers, for letters and interviews, and the nature of prison tasks.

Cellular *versus* association system.

13. There has been a certain amount of controversy in the past as regards the relative merits and demerits of the cellular and association systems. The members of the Indian Jails Committee were themselves divided in opinion on the point.

Points in favour of cellular system.

14. The principal ground, a very important one, in favour of the cellular system is the minimizing of the

danger of contamination of the less criminally minded by the more. The opportunities for plotting, for debasing talk, and for homosexual offences, are definitely reduced when each prisoner is confined in a room by himself. The possibility of the existence of these dangers cannot be altogether excluded, unless segregation is carried to the point of the absolute isolation of all individuals in cells throughout their whole term, which is hardly practicable.

Prisoners confined in the same jail must and do come in mutual contact throughout the long hours of labour, at meal times, during instruction and recreation, and on other occasions. The cellular system is undoubtedly to be preferred for the confirmed habitual,—one reason why, in addition to having a special prison for that class of offender, the accommodation to be provided in such a prison should be wholly of a cellular character.

It is also generally allowed that prisoners suspected of sodomy and other depraved or refractory characters should be required to sleep in cells. There are other cases in which it is desirable to have the means of entire separation, such as that of prisoners who are concerned in pending trials and whom the magistracy wish kept apart. Also the better class of prisoners and persons in delicate health may prefer voluntarily to go to a cell.

Controlled association.

15. Except in such circumstances, a controlled system of association in wards seems sufficiently efficacious in the case of the younger offenders and the novices in crime. Too many persons should not, however, be put together in the same ward. The maximum should be limited to forty, though smaller wards with not more than twenty beds would be even better; and the wards should be properly patrolled at night, and the behaviour of the prisoners watched and supervised as far as it is possible to do so.

Ideal arrangement: isolation at night and association by day.

16. Such an arrangement is, however, only a compromise, and falls short of the ideal system, which, as all authorities agree, is that of isolation in separate compartments at night with association in labour by day. This, which is a modification of the rigid cellular system, has in fact been successfully applied in Great Britain, and is in force in most if not all of the prisons in British India where the cellular system has been introduced. Every prisoner sleeps in a separate room, but he is not kept in his room by day, but employed in association with other prisoners. This circumstance is by itself sufficient to

differentiate the modified cellular system from solitary confinement, either as a judicial or as a prison punishment.

Cellular confinement not unsuited to Indian climate.

17. The opinion has sometimes been expressed that the climate of some parts of India is unsuitable for cellular confinement; but, as has been pointed out, facts do not bear this out. The health of the prisoners in the Salem Jail, for instance, is excellent, though all sleep in cells, and this is equally true of other jails in the Madras Presidency where the cellular system prevails. The objection has even less force in relation to the cooler and more equable climatic conditions of Mysore. Nor is there much substance in the objection as to interference with ventilation and the free perflation of air in a system of cubicles. There is no danger of this, especially if every cell is of the standard size prescribed in British India, namely $12' \times 8' \times 13'$ high, and is provided with a grated door in front and two windows, one above the door and the other on a level with it on the back wall. The standardized requirements in Mysore jails are rather lower, and should be increased correspondingly.

We can easily believe, from what we have seen in several of the prisons visited by us outside the State, that cleanliness and freedom from dust and dirt can be well ensured in that type of jails generally.

Compensating advantages.

18. It is true that a cellular jail is much more expensive to build than one consisting of barracks with dormitories; but cells require less guarding than association barracks, and their provision would effect a saving in establishment charges. Thus in the Penitentiary at Madras, where the inmates are mostly casuals with a sprinkling of habituals, under-trials and civil prisoners, the barracks are of the cellular type. Though the initial cost of construction is higher, it is considered that the cellular system is, in the interests both of the prisoners and of administrative convenience, preferable to association barracks. A certain number of cells must, in any event, be provided even in a jail of the association type for cases already referred to.

SECTION B.

Habitual Prisoners.

Habitual criminals.

19. Habitual criminals are those who have taken to crime from various causes. Among them are those who habitually commit offences against property, and others who habitually commit offences affecting the human body whether for lust, gain or otherwise. Many are criminals by profession whose ideas are definitely anti-social, and whose reform is either not possible or only possible after long years of endeavour. These are the incorrigibles, as distinguished from the ordinary habituals, as to whom, given appropriate treatment, there is a possibility of reform. The incorrigibles, on the other hand, are men with no morals of any kind, and absolutely devoid of feelings of remorse, repentance or shame.

Tendency for habituals to remain such.

20. Experience seems to prove that, once a man becomes a habitual, he will ever remain a habitual.

But it is important to note that this is not because prison life is attractive, but largely on account of the practical impossibility of a man once convicted of certain crimes obtaining honest or congenial employment with the stigma of prison life upon him. The longer a person is in prison, the less fit he is on liberation to resume his place in the community; he has acquired in prison habits and tendencies that are a hindrance to him outside.

Dangerous type

21. The habituals in prison form a rather refractory type of criminals; and a specially trained staff is required for their effective handling. Their association with other persons is most dangerous, both because of their evil example and influence, and because they are always ready to take every opportunity of securing recruits. As has been aptly remarked, the worst characteristic of the habitual criminal is that he helps to manufacture his kind.

Necessity for special prisons.

22. It is for this reason that the setting apart of special prisons entirely for habitual criminals is regarded as a most important measure of penal reform. Central jails for such prisoners have already been established or set apart in various parts of British India, the incorrigibles being as far as possible segregated from the ordinary run of habituals. It may be added that in these habitual jails there is cellular confinement at night for all the inmates, thereby dispensing with the need for special watch being kept by convict officials.

Settlements.

23. We shall consider in a later chapter, when referring to measures for dealing with recidivism, how far the policy of detention in settlements, now applied to members of criminal tribes, can advantageously be extended to the case of persistent criminals generally.

Who are to be included under habitual criminals.

24. Turning now to the question of who are to be deemed habitual criminals, we note that it is made to depend at present (*vide* Rule 203 of the Mysore Jail Manual) more or less on the fact of a previous conviction followed by enhanced punishment or on the undergoing of repeated sentences of imprisonment, and has no particular reference to whether or not the offender is by habit a criminal or an associate with criminal gangs.

Previous conviction by itself does not justify a man's inclusion under the term without consideration of the nature of the crime previously committed, the age of the offender at the time, and the likelihood of his repeating or persisting in criminal acts. Convictions under special or local laws should likewise not be taken into account in deciding if a man is a habitual.

Also a prisoner who escapes or attempts to escape from jail should not, merely on that account, be treated as a habitual offender and subjected to the contaminating influences of association with real habituals. Every member of a criminal tribe who comes into jail should not, without further evidence of previous crime, be automatically classed as a habitual.

Discretion of Courts.

25. There is reason to think that Courts and Magistrates do not make sufficient use of the discretion given by para (2) of Rule 204 of the Mysore Jail Manual to class a prisoner as non-habitual though he may technically fall within the definition of "habitual criminal."

Definition requires amendment.

26. We think, on the whole, that the amplified definition contained in Rule 216 of the Madras Prison and Reformatory Manual is better and more comprehensive and may be substituted. This, among other things, includes within the term "conviction" an order to find security under sections 110 and 118 of the Criminal Procedure Code.

Opportunity to prisoner before being classed as habitual.

27. It is very necessary that every prisoner, before he is classed as a habitual, should be given a reasonable opportunity of knowing the grounds on which such classification is proposed and of showing cause to the contrary. The British Indian Rules specially entitle any person affected to apply for a revision of the order of the classifying authority.

SECTION C.

Female Prisoners.

Advantages of special institution for female prisoners.

28. The policy of concentrating female prisoners in a special institution has many and obvious advantages. First and foremost, the institution would not need to bear too obviously, either in its location or in its construction or internal arrangements, the marks of a prison house. It might be more in the nature of a home of correction and reformation like a Borstal School. It could be placed in open country, with sufficient land around it to allow of a certain amount of farming and gardening and outdoor labour. The cottage principle of self-contained units, each accommodating some twenty inmates, would allow of the necessary amount of classification being effected, and at the same time facilitate domestic service, which would itself afford an all-round training to the inmates in house work. A greater variety of useful and interesting industries could be introduced, and more efficient arrangements rendered possible in regard to primary education. Better provision could be made for medical attention and nursing, including a separate ward for maternity cases. A certain amount of psychological treatment, too, might be afforded in the case of offenders likely to be benefited by it. In these and other ways, there would be good opportunities for real constructive training. Above all, the plan would avoid the complete loss of self respect which women frequently suffer as a result of incarceration in prison.

But not justified by existing strength.

29. But it so happens that there is not at present a sufficient number of female prisoners to justify a separate institution for their detention. The daily average number of female prisoners in both the Bangalore and Mysore Jails has been not more than twenty-six for the past five years, and in all the magisterial lock-ups put together about ten, these being either under-trials or short-termers with sentences of one month and below. In British India, separate prisons for female prisoners have been established in the Madras Presidency at Vellore, in the Bombay Presidency at Yeravda, and in the Punjab at Lahore; but their daily average population ranges usually between 100 and 200 or more. A separate prison, or a special institution, would only be feasible if the total number of convicted prisoners with sentences of over a month should approach a hundred for the whole State.

Separate wards sufficient for the present.

30. For the present, it seems sufficient to provide separate and detached wards for women in the Central and District Jails. If a special prison is built for habitual prisoners, female habituals should naturally be transferred there, and not kept with the female casuals.

Separation among female prisoners.

31. Among female prisoners themselves, both habitual and casual, there should be a complete separation of the juveniles and adolescents from the older prisoners, and of women who have lived hitherto a respectable life from prostitutes and procuresses. Prolonged association with these and with female thieves involves certain contamination for the less sophisticated and younger criminals, which can only be avoided by rigorous measures of segregation.

Young female offenders.

32. Young female offenders below the ordinary prison age should never be confined in a prison. If of the age of sixteen or above, they should be sent to an institution for girls corresponding to the Borstal School for boys; and if below that age, to a certified school, including herein any well-managed children's home run by respectable private agency and recognised by Government. Apart from youthful offenders, even those of older age should, as far as possible, on their first offence, be kept from contact with hardened criminals.

Prostitutes.

33. Prostitutes form a class notoriously difficult to deal with. Nevertheless, all are not equally bad, and efforts should be made to separate the beginners from those who are hardened to the trade, to reform such as show any hopeful signs, and to provide new interests and occupations for their minds and bodies.

Habitual thieves.

34. Females who habitually commit crimes against property are usually members of criminal tribes and form a type of hardened criminals. They should be effectively separated from the rest and confined in a separate yard. Such hopes as there may be of their reformation is linked up with the weaning of their male relatives from criminal activities. (*Vide* Chapter on "Criminal Tribes.")

Infanticide cases.

35. Besides prostitution and theft, the graver offences found amongst women are principally cases of infanticide. These offenders, it has been said, are as a type in reality very superior to the ordinary criminal. At the time when they commit the act, they are often beside themselves from financial anxiety, shame, loneliness, and the fear of being cast off by their families. When, in addition, we consider the factor of mental instability,

frequent at the time of childbirth, it is not difficult to understand why those committed for infanticide are often first offenders, women under normal circumstances far removed from any criminal type.

Apart from any necessary action for mitigating the rigours of the criminal law as regards the admissible punishment for this class of offence, we think that the offenders themselves should be kept separately and treated differently from the ordinary run of criminals.

Under-trials.

36. Elsewhere we have emphasized the necessity for separating remands and under-trials from convicted prisoners. Our remarks on the point apply to female no less than to male prisoners.

Female block.

37. In every general prison where female prisoners are received, the female block should be altogether separate and detached from the blocks where the male prisoners are confined; but there should be communication by telephone or bell with the main gate. Female prisoners or lady visitors entering the jail should be able to reach the female block without coming under the observation of the male prisoners.

Staff of female block.

38. With the exception of the Superintendent and a few necessary members of the staff, the whole of the staff connected with the female block should consist of women.

These will include a matron and at least one female warder for a Central or District Jail, and one female warder for each District Sub-jail. In the case of the Taluk Sub-jails, where there may not always be female prisoners awaiting trial, the officer in charge should engage some respectable woman in the neighbourhood to perform the duties of female warder while the need lasts.

Female escort.

39. The escorting of female prisoners from one prison or sub-jail to another should not be left to be carried out by the police alone. There should in every case be a female escort.

Treatment of female prisoners.

40. We shall for convenience deal in this place with certain points concerning the treatment of female prisoners; instead of in the general chapters devoted to prison treatment.

Work in female block.

41. The number of women in custody even in the Central Jail is ordinarily small, not more than sufficient to attend to the house-work of the women's block,—cooking, pounding rice, sifting and cleaning grain, making curry powder, washing clothes, repairing clothing, and the like.

The grinding of grain must not be imposed except as a punishment; and garden labour, where such is available, should be of a light character.

Vocational instruction.

42. If there be a sufficiently large number of inmates, it is desirable to arrange for their being instructed in spinning and weaving, knitting and needlework, hosiery and embroidery, basket and mat making, rattan work, and other occupations.

Literary, religious and moral instruction.

43. Female teachers should be engaged for imparting elementary literary education, and some instruction in domestic subjects and music. Religious and moral instruction will ordinarily have to be left to voluntary agency, if possible to educated ladies who may be willing to devote time and trouble to the helping of their weaker sisters. In addition to discourses on religious subjects, there may be weekly lectures of a more general character.

Recreation.

44. Ample facilities for recreation should be provided, in the form of singing, recitation, reading, and indoor games, also occasional musical performances by outside artistes. Light physical exercises, and outdoor games like badminton, will be healthful and even reformative in effect where they can be conveniently provided.

Clothing, toilet and other amenities.

45. Female prisoners should be encouraged to keep themselves neat and tidy. They should be given an additional pair of sadis, a woollen jacket during the cold season, and a reasonable supply of oil (four spoonfuls instead of the present allowance of two per week) for dressing their hair. A mirror and a comb to each inmate, with permission to obtain other toilet articles at their own cost, will help to maintain that feeling of pride in personal appearance which is an element in the cultivation of self-respect.

Female prisoners do at present bathe separately in their own blocks, but this is usually done in the open air. On grounds both of health and of privacy, there should be a covered private bath-room for them.

Medical attention.

46. The matron should, if possible, be a person with some medical qualifications and competent to attend to cases of ordinary ailments. Unless the number of female prisoners is sufficiently large, it may not be possible to attach a separate lady doctor to attend on them. But it is desirable that a lady doctor should go round the female block once a week to look into cases of such ailments as women patients ordinarily hesitate to mention to a doctor of the opposite sex.

47. In every Central and District Jail, there should be a separate ward for maternity cases, or other satisfactory provision outside the jail for cases of child-birth. Maternity cases.

It is advisable, as a rule, to release female convicts in advanced stages of pregnancy, the release being on parole in the case of lifers. Under-trials expecting confinement should, wherever possible, be released on bail, and in other cases, removed to the nearest maternity hospital, or failing this, be treated by trained maternity nurses.

48. A child under two years of age which is still at the breast is now admitted to jail with its mother, if it cannot be placed with relations or otherwise properly provided for (Rule 732). In the interests both of the mothers and of the children, the limit of age should be raised so as to allow a female prisoner to retain her child until it is five years, or, with the approval of the Superintendent, even up to six years of age, if she so desires. Six years is the maximum limit in British India (*vide* Rule 836 of the Madras Prison and Reformatory Manual). In all such cases, the necessary diet and clothing for the children should be freely provided, as is indeed the practice now. Children of female prisoners.

49. Interviews must be freer in the case of female than of male prisoners, and more readily available. Interviews.

50. We recommend in another connection that a certain number of women visitors should invariably be appointed for prisons where females are confined. We may add that such visitors can do a great deal to help the prisoners by their interest and sympathy, and by participation in their education and instruction. Women visitors.

51. When we come to the subject of Aid and After-care, we shall deal with some special requirements of female prisoners. We will only say here that no girl should go out of prison without a job being found for her either with an outside employer or under the Society for Discharged Prisoners' Aid. Aid and After-care.

SECTION D.

Mental Defectives.

52. It is now generally recognized that a prison is not the right place for the detention of mental cases. If a person, whether a criminal or a non-criminal, be mentally unsound, or even if there be a Mentally unsound cases.

suspicion that he is so, he must be removed at once to a Mental Hospital. A prisoner who, in the course of trial, is found to be mentally defective, ought forthwith to be committed by the Court to the Mental Hospital for such time as may be needed for observation and cure, instead of being sent to a criminal jail.

Weak-minded persons.

53. There is another class of cases, namely, that of weak-minded individuals who are constantly returning to jail for some anti-social act for which they are not really responsible. They are not sufficiently insane to require treatment in a Mental Hospital, but they, nevertheless, cannot be adequately controlled by their relatives.

With regard to these, the Indian Jails Committee observe in their Report as follows :—

> "There is to be found in all prisons in India a certain number of mentally defective persons. The presence of such prisoners in a jail is open to great objection. They constitute a serious difficulty in the way of proper jail administration. They break rules, refuse or neglect to labour, endanger discipline, and generally exercise a bad influence. In the interests of the jail, it is, therefore, very desirable that they should be removed, while in their own interests it would be most advantageous that they should be placed in an institution entirely reserved for defectives, where they would be under the care of officers specially trained in the treatment of this class of mental case."

Home for mental defectives.

54. It is very desirable to provide a special home for such mental defectives, as has been done in England and as is being done in some of the British Indian provinces; and it would be a decided advantage if the home could be placed under the same charge as the Mental Hospital, though located in a separate building.

Provision for expert mental examination.

55. The time cannot be far distant when systematic provision will exist for the mental examination by experts of all persons charged with the commission of offences. Even now it is very desirable to provide for such examination at least in cases where there is reason to suspect mental or emotional defect or instability as a contributory factor. In particular, all juveniles and adolescent offenders should be mentally examined by an expert in order to ascertain whether they are mentally normal or not.

All prisoners of whatever age should be similarly examined before they are released on probation or parole.

SECTION E.

Political Prisoners.

Problem of political prisoners.

56. In view of the great increase in recent years of a certain type of offences usually designated as "political crime," the problem of the appropriate treatment of persons convicted of such offences has assumed special importance. Both here and in British India, waves of political unrest bring in at times a large influx of prisoners into the ordinary jails, with the result that the authorities are confronted with serious difficulties not only as to accommodation, but in such matters of prison treatment as classification and separation, discipline, labour and employment, food and amenities.

Three questions involved.

57. The problem before us involves three main questions: first, what are "political crimes" or should be regarded as such for the purpose of differential treatment; secondly, should political offenders undergoing imprisonment be treated differently from other prisoners; and thirdly, what differentiations in treatment may rightly be accorded in various cases.

What is political crime?

58. First, as regards the definition of political crime. Obviously, it does not carry the matter much farther to say, as some have done, that the term should include all offences committed in furtherance of a political object.

It would not be difficult to see or imagine a political object behind offences ranging in character from the active assertion of a right to do a prohibited act (say, the driving of a car without a license or the publishing of a paper without permission) to the organisation of popular uprisings and the overthrow of the established government. And concrete acts committed in furtherance of an alleged political object may extend from such things as the cutting down of forest trees and date palms, or the unauthorized manufacture of salt or fireworks, or the sale of intoxicants, to the robbing of mail vans and the throwing of stones and brickbats on police officials, or the sabotaging of machinery.

Expressions of opinion and trivial breaches.

59. The term "political crime" may, no doubt, be justifiably applied, in the first place, to the expression of *opinions* subversive of the government as established, or likely to create disaffection, disturbance or violent communal disharmony. It may be legitimately extended to acts (or unlawful omissions) in furtherance of such

opinions, such as a technical breach of a law or rule made in the interests of public order or safety, where such acts (or omissions) do not, and are not intended to, bring about evil consequences of a serious nature.

In this view, it will be possible to bring under "political offenders" persons convicted and sentenced to imprisonment in respect of offences under section 124-A or 153-A of the Indian Penal Code, persons sentenced in default of furnishing security for good behaviour under section 108 of the Criminal Procedure Code, civil disobedience prisoners, and persons convicted and sentenced for violation for political reasons of orders under section 144 of the same Code, or similar provisions of the Police Act, or the provisions of special Acts like the Public Safety Act, the Press Act, and the Defence of India Act.

Substantive crimes and acts causing loss or injury.

60. But persons who have committed substantive crimes, such as theft, mischief, assault, or malicious defamation, cannot be included among political offenders merely because they claim to have acted from political motives. Those whose offence consists essentially in the expression of opinions, however objectionable, which do not harm others, or in trivial acts resulting in no serious damage committed merely as a protest against alleged repression, stand in a different category from persons whose aim is, or includes, the causing of wrongful loss or injury. The line of division may sometimes be narrow, but it can usually be distinguished.

Should political offenders be treated differently?

61. Next, there is the question whether political prisoners should at all be treated differently from other prisoners in jail.

Arguments against.

62. The Indian Jails Committee thought there were many and serious objections to the acceptance of any proposal for special treatment. They said:—

> "Crime remains crime, whatever the motive of the criminal may be. The loss to the community through the destruction of life or the dishonest seizure of property is none the less because the criminal intends to use the property for the purposes of a political propaganda or because the person murdered was opposed to the political party to which the murderer belongs. Such a proposal contains serious implications and might lead to dangerous consequences."

They considered, in the end, that the additional form of simple imprisonment with light labour would meet all possible needs.

This, it may be thought, is a rather one-sided attitude, but there is a certain amount of reason behind it. Speaking from an abstract point of view, there is something to be said for the position that it ought to make no difference to the treatment of a criminal whether his crime is against individuals or against society or against the State. Political crime is a form of unlawful conduct which is specially dangerous to society and to the established order, and is apt, if unchecked, to let loose forces which it may be difficult to control.

Detention instead of punishment.

63. Others think that the proper course in the case of political offenders is not to inflict punishment, but to keep the men in detention camps until such time as it may be safe to let them mix with the population again. In such detention camps, it is said, endeavours should be made to allow them to lead their normal lives as far as possible, having their families with them if they and their families wish it, subject only to restrictions being placed on any activities of theirs that might tend to forward subversive propaganda.

Objections to privileged treatment.

64. The idea is attractive, but is hardly likely to command general assent. It appears repugnant to sound sense that persons who have wilfully broken the law should be treated, in effect, as though they were honoured guests of the State, with free food and lodging, full access to books and newspapers, and the unrestricted privilege of receiving visits and of writing and receiving letters. The additional privilege of having their families with them may be the one thing needed to make thousands, who now find life difficult as free men, rush to political crime even at the cost of a certain restriction of individual liberty. Certainly, treatment of this kind, instead of acting as a deterrent to political crime, would merely invite and encourage it.

Motive as criterion.

65. In between these two extremes is the view that breaches of the ordinances of a State do not always betoken moral turpitude, that just as the State has in its own interests made many acts penal which in themselves are harmless or venial, so the citizen may well choose to insist on rights, or protest against encroachments, even at the risk of coming in conflict with the machinery of law, and that motive is the main consideration by which the character of his offence should be judged in awarding the proper treatment to him in prison.

Such a criterion of eligibility for special treatment is not, however, as easy as it looks. It is one thing for a Court to take the alleged or presumed motive of the offender into consideration in awarding sentence; it is quite another thing, whether for the Court or for the prison authorities, to treat motive, regardless of the offence, as the basis of differential treatment as between one prisoner and another. Such a classification, even if theoretically possible, would be extremely difficult to work out in practice. If it were attempted, it would nearly always entail some inequality and invidiousness of treatment, and lead to resentment and discontent all around.

Moral turpitude.

66. Practical administrators have therefore discarded the idea in question, and sought a rather different line of division based not on *motive* alleged or presumed, but on the moral turpitude of the *act*, and on the status in life and antecedents of the prisoner.

Thus, in England, where political offences as such on the part of British subjects are not recognised by the law, a new rule was introduced in 1910 to mitigate the more degrading conditions of prison treatment for offenders whose crimes did not imply " moral turpitude. "

Offender's status and antecedents as well as ature of offence.

67. In the year 1930, at a time when political agitation was very much in evidence, the Government of India went into the whole question carefully, and announced certain important changes in prison administration. These were based on the principle that the status in life and antecedents of the prisoner and the nature of the offence committed are the factors to be taken into account, and that some difference in treatment may also be shown in the case of any prisoner (irrespective of race) whose standard of living is higher than that of the ordinary jail population.

Division into three classes.

68. The decisions of the Government of India were given effect to in all the provinces, with the result that convicted prisoners are now divided into three classes A, B and C.

Class B is intended for prisoners who, by social status, education or habit of life, have been accustomed to a superior mode of living.

Class A, carrying somewhat greater privileges and relaxations, is meant for the benefit of those who, in addition, have not been convicted of offences involving cruelty, moral degradation or personal greed, or serious

or premeditated violence, or offences against property, or relating to the possession of dangerous weapons with a view to the commission of an offence.

Prisoners who cannot be brought under either of the above categories will come under class C.

Action in Mysore.

69. The matter was taken up in Mysore shortly afterwards, on a question raised in the Legislative Council. It was thought sufficient in the end to frame a few simple rules in place of the rather elaborate rules adopted in British India. An Order of Government dated 18th August 1930 says:—

> "The Government consider that there is no immediate need for adopting in the State jails an elaborate system of classifying prisoners according to the degree of special treatment they are to receive. It would be sufficient, in their opinion, if simple rules are issued so as to enable the jail authorities, with the specific permission of Government in each case, to extend certain special privileges to prisoners who, by reason of their status in life, their antecedents, and the nature of the offences committed by them, may be considered as eligible for special treatment."

Special Class.

70. The new Special Class is identical in every respect with class A of the threefold division adopted in British India. The "simplification" has consisted merely in the omission of the intermediate Class B, intended for those prisoners, fairly numerous in the aggregate, whose standard of life is higher than that of the ordinary jail population, and who, for that reason, apart from any consideration of the nature of their offence, are elsewhere deemed eligible for a measure of special treatment below that reserved for the more select and limited number grouped under class A.

Threefold classification recommended.

71. The fact that there are less prisoners in our jails than in the jails of British India may be a ground for practising economy in the machinery and details of administration (buildings, staff, materials, and so on), but is not, we venture to think, a good reason for lowering the standard of individual treatment appropriate to any particular class of prisoners. The addition of one more class of prisoners to the two now existing cannot, in our opinion, make for undue elaboration.

With a view to improve the conveniences and amenities available to B class prisoners, the Madras Government have quite recently decided to remove all distinctions in treatment between them and A class prisoners except in regard to the provision of furniture,

This obviously is a very different thing from having a single class—a very limited one—to which special privileges are allowed, while all the rest enjoy none.

We recommend that the threefold classification in force in British India be adopted, but that in respect of diet, clothing and bedding, and of facilities in the matter of books and newspapers and of letters and interviews, the privileges of the special class and the proposed new intermediate class be assimilated as in Madras.

At the same time, we would suggest that, while inclusion in the higher classes must rest with Government on the recommendation of the courts and the magistracy, persons so recommended may (to obviate delay) be tentatively treated as belonging to those classes until orders of Government are received.

Scope of differential treatment.

72. There is, lastly, the question of the scope of the differentiations to be accorded.

Categories of political offenders.

73. Of persons convicted of political crime, there are undoubtedly some who act from a sincere conviction that a given system of administration, or a particular ordinance or impost, is harsh or unjust, and wish to draw attention to such a conviction, and break the law simply by way of protest and not as an organised movement against constituted authority. Such persons, who are sometimes men of high character and attainments, are comparatively few in number. Others there are, rather more numerous, often men of education and culture, and not devoid of ideals of public spirit and social service, who seem to the authorities actuated by unreasoning hatred and violent opposition not unmixed with ideas of personal self-importance. These are the moving spirits, the ring-leaders of any organized political movement. The generality are men of little influence, education or reflective power, easily led by the more ardent spirits, and apt to be attracted by the glamour of publicity, the excitement of violent action and the longing for easy martyrdom.

Treatment according to category.

74. The treatment to be accorded to such various categories of political offenders cannot well be identical. The first, the rarer type, should be treated with all possible consideration; imprisonment in their case should be equivalent more or less to regulated detention, with such relaxations and concessions as may be suited to their status and condition, and are allowable to the special class of prisoners under Rule 207-A.

The requirements of the larger group of educated and intelligent leaders and agitators will be met by including them in an intermediate class corresponding to Division B of the British Indian classification.

This leaves the rank and file, who must be classed with the ordinary casual offenders for all purposes of treatment.

Corresponding concessions.

75. In this way, political prisoners will receive the treatment appropriate to their character and condition. Those placed in the two higher divisions will be eligible for certain concessions in respect of diet, clothing, accommodation, and the use of books, magazines and newspapers, but not in other respects such as labour. Work must be regulated according to the health and physical fitness of the individual concerned and, where possible, his special talents and aptitudes. From our enquiries of persons who have themselves been political prisoners or are acquainted with their conditions and needs, we understand that an arrangement on the above lines will meet all reasonable requirements. Naturally, the leaders of a popular movement would, in the interests of the movement as well as of their own personal popularity, like to have their humbler followers receive the same treatment as themselves, if not *vice versa*; but this, as we have just indicated, seems out of the question.

Separate confinement.

76. There is general agreement, among non-officials as well as among prison officials, that political prisoners should be kept quite separately from the rest of the prison population. This is necessary not only to preserve the former from contaminating associations with the latter, but equally to prevent the spread of undesirable influences from the one class to the rest.

It is also expedient, as among the political prisoners themselves, to separate the leading spirits as far as possible from the common individuals who follow them more or less unquestioningly. There is some reason to think that it is the influence of the former and the fear of their disapprobation that often holds back many of the latter from opportunities for reconsideration and repentance.

Behaviour in prison.

77. We have no reason to think that political prisoners as a class behave very differently from the ordinary casual prisoners.

Sometimes, it is true, they are insistent on demanding better treatment than the ordinary run; but as a rule they submit themselves to the prescribed discipline like

the rest, and also like them are apt at times to commit the same kind of minor prison offences.

At the same time, it is not surprising that, as our information shows, some political prisoners, at any rate, are not above the temptation to utilise any situation wherein ordinary prisoners might be made use of to embarrass the jail authorities, often to the serious prejudice of discipline.

Complaints.

78. Serious allegations were made publicly, some time ago, in regard to the harsh and unjustifiable treatment said to have been meted out to a number of political prisoners on various occasions. These complaints formed the subject of an enquiry conducted at the instance of Government by a Judge of the High Court, upon whose report final orders were also passed by Government. No statements as to occurrences of this kind in prison were made before us by any one of the political prisoners whom we made a point of closely questioning during our visits to the places of their confinement. From all that we have heard directly and otherwise, the complaints of political prisoners, apart from classification, association, diet, and labour, turn mainly on the deprivation of luxuries and requirements like soap and tooth-powder, books and stationery. These are complaints which can be easily removed by extending to them, as to all other classes of prisoners who are well conducted, the concession of procuring reasonable amenities of this kind at their own cost.

SECTION F.

Other Convicted Prisoners.

Persons sentenced for violation of special laws.

79. Apart from political prisoners so called, there are others who have been sentenced for violation of special laws such as the game laws and motor laws. These in many if not most cases are not criminals in a true sense; they deserve to be treated with such leniency as is possible, and should not be mixed up with the ordinary criminals.

Persons of social position.

80. Then there are the cases of persons of some social status or belonging to the leisured classes, as to whom a sentence of imprisonment often involves much greater disgrace and discomfort than in the case, say, of a manual labourer who is accustomed to hard fare and hard work,

It was observed by the Indian Jails Committee that, so long as this discomfort does not affect the health of the prisoner, it must be regarded as the penalty which is due to those who, in spite of their advantages of station, fall into crime.

But where there is reason to believe that either the mind or the body of a prisoner is likely to be injuriously affected by the discipline or treatment, the same should be varied or suspended by the Superintendent on a report made by the Medical Officer.

A rule to this effect will allow of a special dietary or special clothing or bedding being issued, or the form of labour being changed, in suitable cases.

Simple imprisonment.

81. Simple imprisonment, in the sense of detention without liability to work, should be reserved for very exceptional circumstances. In any ordinary case it is a great mistake to shut a man up to idle brooding. He would be much healthier and happier if he were given some light or simple work to do.

Two kinds suggested.

82. In view of the injurious effects of idleness on prisoners sentenced to simple imprisonment, and of the prejudicial effect on prison discipline of the presence of idle prisoners, the Indian Jails Committee recommended that section 53 of the Indian penal Code should be amended, and simple imprisonment declared to be of two kinds, namely, (*a*) without liability to labour, and (*b*) with liability to light labour. All simple imprisonment would be of the (*b*) class unless otherwise directed. Prisoners sentenced to simple imprisonment of the (*b*) kind would thus constitute a new class, intermediate between rigorous and simple imprisonment prisoners, but approximating to the latter.

This recommendation has not yet been acted upon in British India, though there is a great deal to be said in favour of its adoption.

Work is now entirely optional, though simple imprisonment prisoners are required to clean their own wards and wash their own clothes, and may be compelled to cook their own food or the food of other simple imprisonment prisoners, but not compelled to perform menial or degrading duties. They may also be compelled to take walking exercise. The position is not a satisfactory one, and we think that it should be definitely improved on the lines suggested by the Indian Jails Committee.

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Option to work.

83. Meanwhile simple imprisonment prisoners may continue to have the option to work, thereby becoming eligible for labouring diet, and to earn remission like other labouring prisoners. They may also be allowed as at present to wear their own clothes.

Simple imprisonment in default of fine.

84. The subjoined statement gives figures as to the committals to prison ordered in default of payment of fine during the past five years.

Year	No. of persons on whom a fine was imposed	No. of persons who went to prison in default	Percentage
1935 ...	794	580	73·04
1936 ...	746	544	72·92
1937 ...	641	525	81·93
1938 ...	667	537	80·50
1939 ...	3,741	2,694	72·91

The number of simple imprisonment prisoners is needlessly increased by the sentences, usually for short terms, imposed in default of payment of fine. This may be avoided by giving the offenders some time as well as facilities for payment of the fine in reasonable instalments. We shall advert to this and other points relating to fines later on in this Report.

Condemned prisoners.

85. We endorse the recommendation of the Indian Jails Committee that, during the period which intervenes between a condemned prisoner's being sentenced to death and his execution, whatever is possible should be done to alleviate his position. Thus, any prisoner who can read should be provided with a supply of such books as he may wish for; prisoners who smoke should be given tobacco; all reasonable indulgences should be allowed in the matter of interviews with relatives, friends and legal advisers; he should be visited by the jail religious teacher or other approved religious minister. Rule 701 requires to be amended to give full effect to this recommendation, which has already been adopted in British India.

Women under sentence of death should be kept in a cell in the female yard, guarded solely by female warders. The point is not specifically provided for in Rule 700 of the Mysore Jail Manual.

86. Long-term prisoners suffering from incurable diseases, prisoners suffering from advanced tuberculosis or other infectious diseases, and lepers, should be totally segregated, and, where possible, sent to special medical institutions for treatment. Prisoners suffering from incurable or infectious diseases.

87. Rule 756 of the Mysore Jail Manual refers only to leper *convicts*. Strict segregation should be enforced in the case of all prisoners, whether convicted, under-trial, or civil, found to be suffering from the disease. Segregation.

88. Any cell or other building which has been occupied by a leper prisoner should be thoroughly disinfected, the walls scraped and whitewashed, and the floor, if of earth, renewed, before the place is used for any other purposes. Disinfection.

Clothing and bedding that have been used by a leper should never be re-issued except to another leper prisoner, and should be thoroughly disinfected and washed before re-issue.

89. Sexual offenders are not treated as a separate class here or in British India. Sexual offenders.

The question in their case is one not so much of treatment in prison, as of the judicial punishment appropriate to their offence.

90. The conditions of prison life, with its cheerlessness, monotony and repression, almost inevitably favour the perversion of the sex instincts. Not only is self-abuse very common, but sodomy and other varieties of sexual vice flourish, sometimes openly and to the knowledge of the prison authorities. Sexual vice in prison.

The simplest way of dealing with the evil in prison is to confine juveniles and adolescents in separate institutions, to put offenders known or suspected to indulge in evil sexual practices in unicellular rooms by themselves, and to keep careful watch over their behaviour during hours of association.

91. In most jails, it has been observed, there is an infirm gang, consisting of old men who are too feeble to do their tasks in the ordinary barracks and worksheds, or suffer from chronic disease not of an infectious nature. Old and infirm prisoners.

Some of them are persons who have committed serious crime such as murders in later life. Others have led hard working and honest lives and, through no fault of their own, find themselves destitute and homeless when they can no longer earn sufficient to keep themselves.

Most of these, who have no friends or relatives to keep them, might well be accommodated in poor-houses maintained by the municipal authorities, as in England, instead of spending their last days uncared for in jail.

SECTION G.

Civil Prisoners.

Imprisonment of debtors.

92. Imprisonment for non-payment of debt is a relic of archaic legalism, which is bound sooner or later to disappear from civilised judicial systems. The theory is that the committal to prison is not for non-payment of the debt, but for failure to comply with the Court's order for payment, thus amounting to a contempt of its authority. The practice of putting civil debtors in confinement has been much abused in the past, and it still remains a means of harassment of the honest, even if improvident, debtor, though a more or less futile weapon against a fraudulent one.

Need for separation.

93. Apart from the question of its abolition or replacement by other remedies, it must be affirmed that it is most undesirable to herd civil prisoners along with convicted criminals within the same enclosure even if in a separate block. However rigid the separation, experience shows that it is difficult to prevent the one class from coming in contact with the other at various times.

It would be best to confine civil prisoners in a separate institution under purely judicial control, as recommended by the Indian Jails Committee. If this cannot be done, they should be kept in a separate building or in a block outside of, or altogether detached from, the rest of the criminal prison, in such a way as to prevent all possibility of contact, accidental or other.

Conveniences and amenities.

94. Civil prisoners should be permitted the use of books from the jail library, and to obtain, at their own cost, books and newspapers from outside, and to engage in harmless indoor games or other means of spending time. So far as possible, separate sleeping accommodation should be provided.

SECTION H.

Prisoners Under Trial.

Separation of under-trials from convicts.

95. Under-trial prisoners should not be sent to the ordinary convict prisons, but detained in the subsidiary jails (hitherto known as magisterial lock-ups), one to be maintained at each district headquarter town and at every station where there is a special magistrate.

Reasons for separation.

96. Absolute separation in their case is necessary not only on moral and hygienic grounds, but also for administrative and social reasons. As far as Bangalore is concerned, inasmuch as the Central Jail has to be removed outside the City, it will be necessary in any case to provide a special building in proximity to the Courts for keeping under-trial prisoners--a place where they may be in a position to communicate with their lawyers and relatives, but must not be able to communicate with each other. Since their treatment during detention differs in essentials from that of convicted prisoners, it can be carried out much more easily if the two groups are accommodated in separate buildings.

Under-trial prisoners, again, are very apt to carry infection on their persons and in their clothes and belongings. They come usually in small numbers, and vary not only in personal characteristics, but also in types of social status and in the matter of general condition and hygiene. It is difficult, in an under-trials' block situated within a general prison, to take effective measures to prevent the spread of infection, to keep off pests like bugs, fleas and lice, and to ensure perfect cleanliness and sanitation.

Practice of convicts entering under-trial ward undesirable.

97. With the removal of under-trials to separate places of confinement, the undesirable practice of convicted prisoners entering the under-trial ward, whether as convict officers or as sweepers and scavengers, will at once cease. The guarding duty, in particular, should be entrusted solely to paid agency.

Separation as among under-trials.

98. As among under-trials themselves, measures of further separation are always necessary. Adolescent prisoners should be invariably separated from the adults. Casuals should be kept apart, throughout the period of trial, from those known or suspected to be habituals, if they are to be protected from the danger of being persuaded, by example and teaching, to take to a life of crime.

What is said of English prisons in the subjoined passage is equally true of Indian prisons :—

"The large majority of untried prisoners are not, as may often be supposed, respectable and probably innocent people, but 'old hands' with, in all probability, quite a string of previous convictions—whatever may be their fate on the charges pending. The prevention of contamination is therefore a matter of importance, introducing serious difficulties into the question whether trial prisoners should be allowed to associate together. Prisoners of this type may also endeavour to concoct false evidence or to arrange plans of escape, so that any relaxation of supervision may have serious results."*

Consequently, prisoners who are known to have been in jail before should be separated from those who, so far as can be ascertained, are in prison for the first time; and those accused of heinous offences or suspected to be habitual thieves or members of criminal gangs should be kept apart from the rest.

Arrangements must also be made to render possible the complete separation of such prisoners as are concerned in the same case, and particularly of those whom the magistracy specially require to be kept apart.

Information regarding under-trials.

99. Available information as to the character and previous history of every under-trial prisoner should be furnished to the sub-jail authorities at the time of his remand.

Accommodation must be cellular.

100. In order that all these indispensable measures of separation may be effectively carried out, it is necessary that, in all future construction, the accommodation to be provided for under-trial prisoners should be entirely cellular in character. This will ensure complete separation for every prisoner by night, while dangerous persons, such as those who are being tried for gang dacoity, etc., will always be kept in cells for greater security. Any prisoner who wishes to remain separate during the day should be allowed to do so.

Under-trial prisoners should not, however, be kept in their cells by day against their wishes. They should have a yard with sufficient space and facilities for walking and taking exercise. They should be encouraged to do light work in the interests of their health.

Concessions and amenities.

101. The concessions and amenities applicable to under-trial prisoners have been amplified in various respects in British India.

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*L. W. Fox, "The Modern English Prison."

We indicate below the principal directions in which improvements on parallel lines are required in our own Rules :—

(i). The classification of prisoners into special, intermediate and ordinary for purposes of treatment should be extended to under-trial prisoners, the division being made by the Court subject to the approval of the District Magistrate.

(ii) Under-trial prisoners should be allowed to purchase or receive from private sources food, clothing and bedding and other necessaries, and to supplement at their own expense the prison supply of diet, clothing and bedding.

(iii) They may be permitted the use of a reasonable quantity of tobacco or *pan supari* and to obtain oil for toilet purposes, at their own expense in all cases.

(iv) They may be permitted to wear shoes.

(v) They should be allowed the use of such books as are in the jail library, and also allowed to procure at their own cost such books as the Superintendent may approve, and also articles of stationery.

(vi) Special and intermediate class under-trials may be permitted to purchase newspapers and magazines at their own cost, subject to the same being censored before issue.

Interviews and communications.

102. The grant of extended privileges to under-trial prisoners in the matter of interviews and communications will be dealt with as part of the general question.

Production in court.

103. Under-trial prisoners should not be made to walk from prison to court for trial, but taken in closed conveyances to and from, unless the distance is quite short. This, incidentally, will obviate the need for handcuffing any but dangerous and uncontrollable prisoners.

No prisoner should appear in fetters except with the special permission of the Court.

The practice of making a prisoner stand in the dock all throughout the trial is as unwarranted as it is harsh and humiliating, and should be discontinued. Every accused person (unless he prefers to stand) should be told to sit, either on the floor of the dock, or on a raised stool or chair, according to his status in life, immediately after the presiding officer of the Court has taken his seat.

When an under-trial prisoner has to be sent to Court, he should be given his food before he goes, and arrangements must be made to enable him to have his food when he returns.

If an unconvicted prisoner is seriously ill, the Superintendent should report the fact to the Court accompanied by a medical statement of the case, in order that, if the Court sees fit, the prisoner may be released on bail.

Undue detention of prisoners pending trial.

104. During our visits to jails and lock-ups, we have come across several instances of under-trial prisoners being detained for unreasonably long periods, often exceeding three and sometimes even six months in the aggregate. We have not been able to obtain precise figures showing the numbers and percentages of persons detained for various periods. But from the statement subjoined, showing the total number of persons detained in the prisons of the State awaiting trial during the past ten years, it may be gathered that a substantial proportion of them, ranging from 16 to 23 per cent, were subsequently discharged or acquitted on trial, and that a nearly equal number were considered eligible for release on their recognizances or on bail. It is possible that the number of persons detained might be materially reduced, were the English practice invariably followed of making arrests only after satisfactory and convincing evidence had been first gathered against the accused. The apprehension of persons on little more than suspicion in the hope of encouraging witnesses to come forward and speak freely, or with a view to enabling the police to work up their investigation at leisure, will tend needlessly to swell the number of persons in custody, many of whom may afterwards have to be released on bail or may turn out to have been innocent.

STATEMENT OF UNDER-TRIALS.

Year	Total number of admissions	Released	
		On bail	Discharged and acquitted
1930	2,936	683	639
1931	2,871	487	671
1932	2,935	573	629
1933	3,828	588	622
1934	4,058	715	733
1935	4,997	867	1,118
1936	4,014	764	828
1937	3,657	876	696
1938	3,894	789	819
1939	5,711	1,049	1,009

105. To keep a large number of prisoners awaiting trial for months together is not only a great hardship to the prisoners themselves, but entails on Government a considerable expenditure of money for their maintenance in prison. The matter is one that calls for effective action. A few suggestions may be offered in the matter. Necessity for effective action.

The officer in charge of every prison where under-trials are kept should be required to send to the Magistrate concerned fortnightly reminders regarding all cases of detention for more than fourteen days. He should also intimate to the Magistrate without delay all cases of under-trials detained for bailable offences where bail is likely to be offered by them or on their behalf.

If the detention exceeds one month, the officer in charge should report the fact to the District Magistrate; and if it exceeds three months, he should also make a report to the Inspector-General, who may, if necessary, bring the matter to the notice of Government.

To keep the Government and the High Court regularly informed of the state of affairs, it will be desirable to prescribe the submission at the end of every quarter, if not more frequently, of a consolidated statement of under-trial prisoners, showing separately the number of those who have been in custody for more than three months in cases before Magistrates and for more than six months in cases before the Courts of Session. It would have a most salutary effect all round if the Government and the High Court were to take adequate notice of particularly gross cases of prolonged detention. It would certainly seem possible for Courts and Magistrates, by methodical postings and prompt disposals, to minimize the over-detention of prisoners pending trial.

106. The Courts, in awarding sentence, often take into account the period of detention which a prisoner has undergone before conviction, if it has been at all prolonged. This should, indeed, in fairness be done invariably, save where the Court is satisfied that the prolongation was primarily due to delaying tactics on the part of the accused. There is, however, at present no rule of law or practice requiring a Court to do this. The Indian Jails Committee recommended that half of the period of detention before and during trial should be counted as part of the sentence. In France and some other countries, the whole period is deducted from the term to which the Period of detention before conviction

prisoner is sentenced. We would suggest the desirability of enacting a definite provision of law to the effect that the period of detention prior to conviction should invariably count in reduction of the sentence of imprisonment to be undergone, unless the Court in its judgment otherwise directs.

CHAPTER IV.

Employment of Prisoners.

SECTION A.

Prison Labour.

Every convict must work.

1. It is not desirable that any convicted prisoners should be altogether idle in prison. Save in exceptional cases, even those sentenced to simple imprisonment should be given some light work to do. It would be good for their minds, their health, and their appetite to exert themselves even if mildly; and, besides, since they are being maintained at the expense of the State, it is right that they should do something to minimize the expense.

Simple imprisonment, without labour and with light labour.

2. In this connection we would strongly support the recommendation of the Indian Jails Committee (referred to in the preceding Chapter) that simple imprisonment should be of two kinds, one involving no labour and to be reserved for exceptional cases based on a consideration of age, sex and social position, and the other for all other cases which would necessitate light labour of a prescribed kind, such as watering the plants, sweeping the paths, and dusting the furniture.

Rigorous imprisonment.

3. As regards rigorous imprisonment, beyond defining it as imprisonment with hard labour, the Indian Penal Code does not attempt any explanation of what is meant by "hard labour."

Classes of prison labour.

4. All prison labour is itself divided by the Jail Rules into three main classes—hard, medium and light. This division is apparently based on the amount of physical strain likely to be caused. An elaborate scale of tasks, arranged according to these classes, is given in an appendix to the Manual. We have been told that the tasks set under some descriptions of work (such as spinning) are rather in excess of normal capacity; we have not verified the fact, but we think it might be well if the table as a whole were subjected to scrutiny at periodical intervals.

Principles of selection of labour.

5. So far as the selection of prison labour is concerned, there are certain broad principles which are generally recognized and more or less acted upon.

Thus, in the first place, since labour is imposed as a form of punishment, it must be penal in character and, at the same time, deterrent in its effect on the offender. The two characteristics are really inseparable. Labour which is distasteful and irksome, without being harsh or cruel, will by itself lead the offender to avoid conduct which will bring him back to prison.

Secondly, it should help to reform the offender, by giving him work which will excite his interest, induce him to exert his powers willingly, and so enable him to form habits of industry.

Thirdly, it should provide a prisoner with such work as will call upon and give practice to hand, eye and brain, thereby helping forward his training, and making him better fitted for some useful vocation after he goes out.

Fourthly, subject to the above considerations, the forms of labour adopted should be such as, on the one hand, to employ as many of the prison population as possible on tasks adapted to them, and, on the other, to reimburse to the State part at least of the expense of running the prison and maintaining the prisoners.

Additional considerations.

6. There are, too, other considerations which cannot be ignored: such as that all forms of labour which are purposeless and sterile should be eschewed; that labour should, as far as possible, be productive, that is, result in utility of some kind, even if it be not actually profitable; that there should be a reasonable variety of labour, so that each prisoner may have assigned to him some work which, if not identical with, is at least similar or allied to, his previous occupation, if any, and is also accordant with his own aptitudes and inclinations. Likewise, it is necessary that any given kind of labour, while entailing the full amount of exertion of which the person is normally capable, should not be unduly tiring in effect or too monotonous in nature.

Duration of labour.

7. The Prisons Act of 1870, still in force in Mysore, does not contain a specific provision, as in the Indian Prisons Act, IX of 1894, forbidding the keeping to labour of any prisoner for more than nine hours in any one day except on an emergency. But it may safely be assumed that the spirit of the law in this respect is the same here as in British India.

As a matter of fact, it has been estimated that the organization of a large prison, with its inevitable parades,

meals and inspections, leaves hardly a seven hours' day for regular work.

8. The employments available in prisons generally fall into six main heads :— Prison employments.

(1) Service as convict officers;
(2) Domestic service;
(3) Gardening and out-door work;
(4) Farming and agriculture;
(5) Jail works;
(6) Industries.

Out of the convicts fit and available for work in the prisons of the State during the year 1939, 6·77 per cent were employed as prison officers, 20·93 per cent as prison servants, 8·15 per cent on gardening, 4·51 per cent on other out-door work, 2·38 per cent on jail repairs, 14·54 per cent on preparing ration articles, and 37·71 per cent on industries of various kinds.

9. Those classed as convict officers are concerned, in the capacity of convict warders, overseers and night watchmen, solely with discipline in the barracks, worksheds and the like. Very many of these are long-term convicts, not eligible for manual work during the last third of their term of sentence. Convict officers.

10. Domestic service includes cooking and serving food, sanitary work, fetching and carrying, and so on, and is usually assigned to short-sentence prisoners. Domestic service.

11. The gardening service in the main prisons normally requires a large number of prisoners, chiefly men who will shortly be released, as the facilities for escape are here greater. Men with short sentences, therefore, form the majority of prisoners so employed. Gardening.

12. Agricultural work, including farming, land reclamation and dairying, which constitutes a large portion of the labour in certain convict prisons and training institutions in England and in British India, does not at present form part of the regular employment available in Mysore jails. Agricultural work.

13. Other out-door work consists chiefly in keeping the buildings and grounds clean and free from dust and dirt, a very necessary and important duty, though comparatively light. Other out-door work.

14. The quantum of jail repairs effected through prison labour is at present negligible. In English prisons, about 12½ per cent of the prison population, on an average, Jail works.

is employed on works generally, including both th maintenance of buildings and new constructions.

Preparation of articles of consumption.

15. The preparation of articles of consumption absorbs many prisoners. Some of this work, such as the grinding of ragi and wheat, is rather heavy, though its severity is sometimes unduly exaggerated. Ragi grinding, as a matter of fact, is part of the daily routine of practically every peasant woman in a village. What is important is that only the stronger prisoners should be put on such work, and even they should not be kept at it continuously. This, in fact, is the existing practice in our prisons; the newly admitted prisoner, if healthy, has a weeks's or a fortnight's spell at ragi grinding, and is then taken on to other work. In this connection, the possibility of introducing an improved method of ragi-grinding, which will minimize needless toil, may be investigated. In the Central Jail at Salem, grinding stones mounted on a pedestal at a height of four feet are turned by three prisoners at a time, the men being changed after a three hours' spell. The work is done standing, as this is found to be less taxing than the sitting posture.

Unskilled labour.

16. Coming to industries, otherwise called factory work, this is usually divided into unskilled and semi-skilled labour.

17. The first is intended for short-term prisoners, and is mainly useful as likely to deter them from making another visit to jail. The large majority of prisoners are unskilled in any industry, and do not come into prison for long enough to learn. Many indeed are in prison just because of their mental or physical unfitness to earn a living. The most that can be hoped for is to inculcate habits of industry and ordered work: there can be no question of teaching a useful trade. For all this large class, therefore, must be found forms of work which are useful and productive, but at the same time easily learned without too much damage to valuable material, and for the product of which there is a steady demand.*

Stone breaking and aloe pounding are the chief and often the only unskilled industries in the smaller prisons.

This class of labour requires to be further developed in the Central Jail.

Better class of work.

18. For those prisoners who may be regarded as trainable both by personal fitness and length of sentence, it is desirable to find a better class of work and to train

* L. W. Fox, "The Modern English Prison."

them industrially in such a way as will assist them to earn a living when they go out.

Graduation of labour.

19. The graduation of labour and its adaptation to the different classes of prisoners in a large prison is often a matter of difficulty. But there are some practical considerations which may help to determine the choice.

It is deemed essential that the first visit of a man to jail should engender a fear of a second. If a short-term offender gets an idea that the time spent in jail is not very severe, he becomes less afraid of a second visit. The view generally accepted is that, in the case of both casuals and habituals, the first few months of a sentence should be definitely deterrent, and where the sentence is really short—say, less than six months—the whole of the period should be deterrent. Unless this be so, the prisoners cannot be taught the necessity of discipline, strict obedience, and the habit of hard work.*

Ideal distribution; some difficulties.

20. The ideal distribution of work in a jail, it is stated, would be a short period on heavy unskilled labour, then the major portion of the sentence on more interesting work, skilled or semi-skilled, and a final period in the garden gang.†

This ideal cannot, however, be carried out in the majority of cases. The garden and maintenance services require a large number of prisoners. In the case of the short-term prisoner, there is not time to teach him a trade or put him to anything except such forms of labour as do not require long training. For such prisoners, the only possible employment is unskilled labour.

Inadvisability of putting short-termers to lighter tasks.

21. The present system of putting short-term prisoners on to all the lighter tasks within the jails and on extra-mural work in the garden is far from satisfactory. So far from having a deterrent effect, it gives them the idea that prison life is in many cases an improvement on their life outside. They are well housed, clothed and fed, and they turn out less work than they would have to do for wages.

This, perhaps, is to some extent inevitable, having regard to the large number of short-term prisoners and the comparative dearth of suitable occupations. The isolation of all such prisoners separately in the new District Jails, and the provision of a sufficient variety of labour of different degrees of severity, may help to improve matters.

* Cp. F. A. Barker, "Imprisonment."
† W. J. Powell, "Indian Prisons."

Domestic service for long-termers.

22. So far as long-term prisoners are concerned, there is this to be said on the other side, that the period spent on domestic service should come at the beginning of the sentence rather than later, when the man has been trained in an industry and when his reversion to unskilled labour, except as a punishment, would involve a sacrifice of efficiency and some hardship to him.

Convicts should be employed in jail premises.

23. It is a sound rule that, unless with the special sanction of Government, convicts should not be employed outside the jails in which they are confined, or in any form of work except such as is performed in the jail premises and for jail purposes.

Extra-mural labour.

24. Convicts are at present sent out for work in certain cases, as set out in the note to Rule 367. This is in connection chiefly with public buildings and parks and official residences. We think these deviations from general principle are unnecessary and inexpedient, and may, with advantage, be abolished altogether.

The Indian Jails Committee were insistent that extra-mural labour of every kind, wherever it existed, should be brought to an end. They said:—

> "The employing of convicts to repair public roads, clean public drains and do other such work for municipal or other local bodies, is due to the absence of properly organized manufactures or adequately constructed jails. The system is undoubtedly open to numerous objections: classification of prisoners cannot be carried out, discipline is impossible, irregular interviews and other communications cannot be prevented, tasks cannot be enforced, there is a constant danger of the introduction of epidemic disease, and the public ignominy of such work is good neither for the prisoners nor for the general public."

Public works.

25. Employment on public works should be restricted as a rule to jail buildings. In this connection, we would suggest that the construction of a new Central Jail at Bangalore would be a good opportunity for utilizing the services of a fairly large number of convicts, taking care, however, to see that they are not employed in association with free labourers other than foremen or instructors.

Employment of female convicts.

26. Rule 371 relating to female convicts does not specify the kind of tasks on which they should be employed. The defect may be made good by the following addition:—

> "Female prisoners shall ordinarily be employed in cooking or in the preparation of articles of food, such as pounding, husking, or sifting grain and the like, but shall not be employed in grinding grain except as a punishment. Whenever possible, they shall be given instruction in needlework, knitting, etc., and such other domestic industries as will be useful to them after release."*

* Cp. Madras Rule 397.

Domestic and other service.

27. The proportion of prisoners who may be employed as jail servants and hospital attendants is now fixed at a maximum of fifteen per cent of the total number of prisoners in jail. This seems too high, and may be reduced to ten per cent as in British India. As a matter of fact, there is a tendency in our local prisons to employ too many prisoners on menial duties, a tendency which requires to be curbed in the interests of the economic regulation and proper distribution of prison labour.

Vegetable gardening.

28. It is necessary to attach a garden of sufficient size to every jail, so that the full amount of vegetables required for the diet of prisoners may be grown with prison labour. We have suggested that about twenty acres of good soil would be needed in the case of a new Central Casual Jail with a population of between 500 and 700. While both economy and utility combine to make a garden a necessary adjunct, there is the disadvantage that the gardens in many cases lie outside the jail walls, so that it is necessary to employ prisoners with the shorter sentences, and therefore with lesser temptations to escape, to work in them. Wherever possible, jail walls should be extended so as to include the vegetable gardens also. For the prisoner with a long sentence, it is an advantage to be able to employ him on relatively light labour for the last few months of his time.

Agriculture as jail occupation.

29. The Indian Jails Committee were not very enthusiastic about the adoption of agriculture as a chief prison occupation. They thought the practical difficulties in the way of such a scheme would be very great, particularly on account of the fact that land suited for the purposes of an agricultural jail is not usually available, and that farm work involves the distribution of labour over a very wide area, with special difficulties in the way of supervision and guarding.

These difficulties, however, are by no means insuperable. Where a sufficient extent of fairly good land can be secured in a healthy climate, with either canal irrigation or a supply of stored water, or at least a reliable and adequate rainfall, there is, in our opinion, enough possibility of making an agricultural adjunct to prison a success. What is required is land easily reclaimable, if not already under cultivation, on which crops may be raised annually with convict labour. Obviously, the Punjab experiment of establishing discharged prisoners in the midst of unreclaimed land, definite portions of which are assigned to

them as reward after bringing the same under cultivation, cannot be extended to those who are still regular inmates of a convict prison.

Certain objections examined.

30. It is objected by some that agriculture carried on through prison labour cannot be made profitable. There is a certain amount of truth in the objection, though, as a matter of fact, various prisons in England and in British India seem to have worked the system with success. Apart from this, the proper criterion in the choice of occupations for prisoners is not profit so much as productivity and utility. From this point of view, there is a good deal to be said in favour of including agriculture as one of the recognised modes of employment for prisoners. If it cannot be made as definitely profitable as intensive kitchen gardening, it will at least allow of a portion of the grain required for jail consumption being raised in the jail farm.

Advantages of agricultural work.

31. Thirty per cent, more or less, of the prisoners sentenced to hard labour, are usually agriculturists by profession, whether as owners, tenants or labourers. Unlike most of the skilled industries, agricultural work is easy to learn even for the novice. It is easier to teach, so far as the majority of short-term prisoners are concerned, than a new trade or industry. Instead of putting men on to skilled industrial work like carpet making, cane-work, and superior carpentry, which, in most cases, may not improve their economic position outside the jail, it is preferable to employ them on work to which they are accustomed, and to which they will presumably turn again after their discharge from jail.

While it is true that there may be little scope for introducing a knowledge of improved methods dependent on the use of costly machinery, there must, at the same time, be a certain number who will profit by being taught better methods of carrying on the ordinary processes of cultivation, preserving farmyard manure, conserving cattle fodder, and so on.

Subsidiary occupations.

32. We do not overlook the fact that, since agriculture is a seasonal occupation, there will be several months during which some other subsidiary work will have to be found for the men. For this as well as other reasons, it will be necessary to provide additional or alternative means of employment in or near the prison.

Possibilities of escape.

33. It cannot be denied that, where gangs of prisoners are distributed over a wide area, there is always the

possibility of escapes or attempts at escape on the part of some convicts. But the experience of the Dartmoor Prison in England and of the Central Habitual Jail at Salem shows that such occurrences are always rare where the arrangements for guarding are at all adequate, and where care is taken to see that only short-term prisoners and long-termers approaching the end of their sentence are selected for the work. It will be well, at the same time, to employ the men in batches of not more than fifty prisoners at a time, in which case one head warder and half a dozen warders would be sufficient to maintain the necessary watch and supervision.

Healthy work in open air.

34. In any discussion as to the desirability of agricultural occupations for prisoners, due weight must be given to the fact that open-air work on land has this advantage over other forms of labour that it is healthy without being heavy or monotonous. It is, in fact, recognized in England and other countries as being beyond doubt that the best form of work for prisoners is not manual or mechanical labour done in cell or work-shop, but open air employment on the land. Medical experts and prison officials agree that no kind of employment is more useful; but most prisons are, unfortunately, situated in large towns and populous places, and, therefore, provide little opportunity for open-air work.*

Variety of alternative pursuits.

35. There is, finally, the advantage, from the psychological point of view, of having a variety of alternative pursuits to interest and occupy the mind in the restricted world of prison life. Certainly every attempt should be made to minimize loss and waste in the management of a prison. But the idea of financial return ought not to obtrude itself too much into a discussion as to the best means of reclaiming those abnormal individualities who people the prisons, any more than it should in the matter of training for citizenship the normally growing young lives in our schools and colleges.

Limitation of employment on agriculture.

36. To provide agricultural work for the nine hundred and odd prisoners who represent the average daily population of the jails in Mysore is, of course, out of the question. All that can be done is to employ a certain number of them on such work, and to put as many others as possible on out-door labour of some kind during some portion at least of their term of sentence.

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* Cp. Hobhouse and Brockway, "English Prisons To-day."

The bulk of the prisoners, especially the long-term ones, must continue to be employed on intra-mural labour.

Case of habitual convicts.

37. Without committing ourselves to any such view as that habituals are generally more fitted for agriculture and casuals for industries, we think there are advantages in making agricultural work a principal form of labour in the case of habitual convicts. This is especially so if the new habitual prison is to be located in agricultural surroundings away from the principal industrial centres. Also it will be much more difficult to procure industrial employment for discharged habituals than for discharged first offenders. At the same time, it would certainly be desirable and necessary to make provision for running a certain number of select industries adapted to the new situation and circumstances of the habitual prison.

Dairy as annexe to prison.

38. The addition of a dairy as a profitable annexe to the larger jails has been suggested to us by some witnesses. We have ourselves had the opportunity, during our visits to some British Indian jails, of seeing large herds of superior breeds of cattle being maintained on fairly extensive grazing grounds. But except as a means of obtaining the milk and milk products required for prisoners—which ordinarily can be more economically procured from outside—a dairy farm has in our opinion no particular advantage from the point of view of prison labour or training. It cannot give employment to more than a few prisoners. And, too, the likelihood cannot be overlooked of the farm products being put to surreptitious uses.

SECTION B.

INDUSTRIES.

Skilled labour under factory conditions.

39. We have touched on the main principles and considerations which should govern the selection of prison labour generally. They are equally applicable to that form of labour which is carried on under more or less factory conditions and under skilled supervision.

Requirements.

40. All compulsory labour partakes, ostensibly and primarily, of the character of punishment. But public opinion has long passed the stage when labour was required to be purposeless, monotonous and oppressive in

order to fulfil that character. It now insists that convict labour must be *productive*, that is, must result in something useful or necessary; that it should, so far as may be, be *profitable*, that is, yield a return to the State towards the cost of keeping the man in prison; that it should be *reformative*, in so far that it will usefully occupy the time and attention of the prisoner, and give him new ideas and new interests to take away his mind from the past; and, finally, that it should be *educative*, through the opportunities provided for learning and practising some handicraft which may help him to obtain a living after release.

Labour in relation to stages of prison life.

41. Accordingly, as soon as possible after the first stage of prison life is over, the prisoner should be taken away from the heavy unskilled labour to which presumably he had till then been put, and employed on tasks of a more useful and interesting nature. Also, by giving him instruction in up-to-date methods of labour, he should be enabled to command a living wage after his release from prison.

"It is the duty of the State," said the Indian Jails Committee, "to endeavour to reclaim and reform the prisoner in its hands by giving him the class of labour best calculated to interest and instruct him, to awaken his intelligence, to train him to habits of industry and application, and so to fit him for free life." And they went on to point out that training under modern conditions must possess a greater instructional value than a period passed in breaking stones, in turning the handle of an oil-press, or even in working the simple primitive mechanism of a handloom. While certain hard and deterrent forms of labour must be kept available for the recalcitrant and for the initial stages of imprisonment, the main industries should be educative and interesting.

Selection and apportionment of work.

42. In the selection and apportionment of work, regard must be had, not only to the individuality of the prisoner, but also to the environment from which he has come, as well as to that in which he is probably going to live after release. From this point of view it will be advantageous to give the preference, for purposes of industrial training of any but the simplest character, to prisoners coming from towns and other industrial areas. Even among these, a man should only be finally chosen for a particular work after he has been tried at it for some time and his fitness watched.

Of course, it is not always possible or certain that a prisoner after release will stick to the particular industry he may have been taught in prison. But, even then, the general skill, intelligence and alertness developed by him ought to prove useful in any other industry of an allied character which he may choose to follow thereafter.

Distribution of occupations among convicts.

43. The length of sentence, with the time available for learning a new avocation, is also a not unimportant consideration. Lifers and long-term convicts are well situated in this respect, as they will have time to learn a skilled industry, and may even become dexterous workmen able to follow it as a profitable occupation after release.

In the case of short-term prisoners not belonging to the agricultural classes, the less skilled types of industry such as hand-spinning and weaving should be chosen.

For confirmed habituals, averse by nature to sustained honest work of any kind, the harder varieties of the metal industry may prove particulary suitable.

Such a distribution of industrial occupations will be materially facilitated by the provision of separate jails for the confinement of these different classes of prisoners.

Case of female prisoners.

44. In the case of female prisoners, somewhat different arrangements for training are necessary. When the period of the so-called hard labour—such as cleaning and sifting grain—is over, some form of needle-work, cutting out and sewing ordinary clothes, and similar work, can be profitably undertaken. The use of the sewing machine, which is now to be found in every village in India, should be taught to apt pupils.

Range and variety of industries.

45. It is certainly sound policy to eschew multifarious industries in the same jail, and at the same time to develop some one large industry in each large jail. This, obviously, is necessary in order that the best use may be made of the available jail labour and staff, and their energies prevented from being dissipated in a number of small industries. But it does not detract from the importance of having at command a sufficient range and variety of industries in order to subserve the multiple essential aims of prison labour.

Introduction of powor and machinery: arguments against.

46. There has been much controversy in the past as to the value of power and machinery in the sphere of prison industry.

Leaving out those who on principle are opposed to all machinery as the arch-enemy of contentment and

peaceful progress, there are even now many who are honestly convinced that hand-labour is more effective as a reformative agent, and much more helpful as a means of training for employment after release.

They think that the introduction of machinery and power is calculated to throw a large number of prisoners out of work, or at any rate, to leave them with insufficient employment. They accordingly insist that, as far as possible, prisoners should only be employed in producing articles capable of being made by hand and not by machinery.

Arguments in favour.

47. There is weighty authority on the other side, which favours the view that machinery furnishes the best and most reformative method of employing prisoners. We quote in illustration the following observations of the Indian Jails Committee:—

> "As the reformation of the prisoner is the object to be kept in view, and as familiarity with power-driven machinery is instructive and mind-awakening, the provision of such machinery subserves the true functions of jail administration; while at the same time it increases production and tends to give increased relief to the tax-payer. It is therefore from all these points of view justifiable."
>
> Further: "The jails must be so equipped and staffed as to be able to turn out articles as good as those procurable in the open market. They must be allowed to utilise the same resources of modern science as are available to the manufacturer. There is a numerous class of articles which cannot be given the requisite finish by hand and for which machinery is indispensable. These the jails cannot supply if they are prevented from installing the requisite apparatus. Public departments, again, often require a large supply of goods at short notice; such orders cannot be complied with if the articles have to be made by hand. Moreoever, hand-made goods can seldom compete with machine-made goods except under specially favourable conditions, as, for instance, when the skill of the hand-worker, the result of lifelong application to a particular trade, enables him to produce something which the machine cannot copy. But such conditions never occur in jails; for there the expert worker, just as his skill has reached a high standard, comes to the end of his sentence and is released. Machinery is thus specially necessary for jails which cannot count on the retention of their skilled workmen."

A middle view.

48. We think it is possible to maintain a view that does not incline too much to either extreme.

So far as reformation is concerned, we do not know that there is very much to choose between machine production and hand labour. The important thing here is to arouse the prisoner's interest and attention, develop habits of industry, and draw out and cultivate latent skill and

ingenuity. If anything, the advantage here is in favour of a carefully selected form of handicraft, like simple carpentry, spinning, book-binding and shoe-making.

It must be remembered that even the simpler handicrafts require the use of tools and implements, and to that extent are not strictly speaking forms of manual labour. When we speak of machinery, we do not of course have in mind any such simple accessories to hand-work, but costly plant which, instead of helping and relieving the worker, dominates him and reduces to a minimum his personal share in the production.

Industries likely to benefit prisoner after release.

49. From the view point of the prisoner's future, it can hardly be doubted that, except where a released prisoner can find ready employment in a mill or other power factory, the skill he may acquire in tending a machine in prison would be of little practical use to him. Until and unless the possibilities of such employment are properly exploited, it would not be wrong to say, broadly, that the industries likely to be most useful to a prisoner in after-jail life are of the nature of cottage industries,—the relatively simpler forms of labour that do not require much outlay or a well-equipped shop.

For example, a discharged prisoner can, at a cost of about forty or fifty rupees, be helped to obtain one of those improved handlooms, now in use in various institutions, which turn out economically and in sufficient quantity various kinds of cloth in general demand.* A sewing machine would cost rather more; but if the price could be advanced by an After-care Society on condition of repayment in instalments, an industrious ex-prisoner would be well set up for life.

Question one of practical utility and prudent management.

50. The question whether power should be introduced and power plant established on a large scale is, in the end, a question not so much of principle, as of practical utility and prudent management. Where such a step is required for large scale production to meet an existing demand, or to economize costs to a material extent, and where it will not lead to an excessive displacement of human labour, we do not see why its adoption should be banned. Machinery is merely the hand-maid of labour,

* It has been pointed out, however, that it is very difficult for hand-made cloth at the present time to yield any reasonable profit. Formerly it could compete in quality with mill-made cloth, but machinery has improved so greatly that this is not now the case. (*Vide* W. J. Powell, "Indian Prisons".)

and if it tends to an appreciable saving of cost and to give relief to the labourer, its use is to that extent fully justified.

Methods must be up-to-date and economical.

51. As a matter of fact, a great deal of labour is being wasted at present owing to the continued use of out-of-date methods. In the interests of the tax-payer, old fashioned methods of work and all unproductive forms of labour and unskilled handicrafts must be discarded.

Jail industries should be developed and brought up-to-date as much as possible, and every encouragement should be given to the Prisons Department to make a good profit on the working of the factories.

The cost of prison administration is heavy, and the Government will be fully justified in its endeavour to reduce the burden on the tax-payer by making prison labour as economically profitable as possible.

Sine qua non of prison industry.

52. It is a *sine qua non* of a prison industry that there should be a constant and reliable demand for the product. If, therefore, prison industry is at all to be profitable, it must, in the first place, make all or most of the things required within the prison. In the next place, it must, as far as possible, meet the requirements of the great consuming departments of the State.

Sales to public.

53. If, after these double requirements are met, there is still room for increased production, there can be no objection to sales being made to the general public, provided always that there is no under-cutting in the matter of prices, and no undue advertisement or praising up of prison wares. Such transactions are particularly unobjectionable in the case of well-established special manufactures, like pile carpets, for which the Bangalore Central Jail has established a name and secured an outside market.

Competition with outside trades and industries.

54. There is little real substance in the outcry occasionally raised against jail competition with the free market. No outside firm—none which works on efficient business-like lines—should fear the competition of untrained prisoners, who do not put in, on an average, more than six hours' actual work a day. It is the bare truth that "when all is done that can be done, prison labour remains inefficient as compared with free labour, and the total number of prisoners available for manufactures, spread over all the provinces of India, is not sufficient to have any appreciable effect on the great mass of industrial employment in the country."*

* Report of the Indian Jails Committee.

55. It must be recognized, at the same time, that jail manufactures have to be carefully chosen so as to avoid competition with weak and unorganized trades or with budding industries. On this point the Indian Jails Committee have expressed themselves as follows :—

"It is wrong for the State to enter into direct competition with the struggling handloom weaver or the village artisan; it would equally be wrong to start a factory in competition with some new private industrial enterprise, such as chemical industries."

"The least injury to private enterprise will be caused by directing jail labour into those channels in which large, organized, powerful industries are already in existence, such as the great cotton industries, etc."

Policy of Government in the matter

56. As a matter of fact, the manufactures carried on in Indian jails are ordinarily limited to their own requirements and the requirements of Government departments, which are more or less constant from year to year.

The policy of the Mysore Government in this matter is formulated in Rule 375 of the Mysore Jail Manual, and is identical with that laid down in British India. The same may, with advantage, be supplemented by the adoption of detailed instructions on the following lines, based on rules that have been issued in British India :—

To be inserted as Rules 375-A to 375-J of the Mysore Jail Manual.

375-A. The officers of the Department of Industries shall furnish, free of cost, when called upon to do so, any expert advice that may be required by jails on technical matters of equipment and management of industries.

375-B. The purchase from jails of textiles of all kinds, certain articles of furniture, sandals, and miscellaneous articles of stationery, shall be obligatory on consuming departments of Government.

375-C. Specifications of articles required by consuming departments of Government shall be standardized in consultation with the Director of Industries, and shall not be changed without the sanction of Government.

375-D. In all cases of difference of opinion as to whether an article is up to the required standard, a committee shall be convened consisting of a representative of the consuming department, one of the Prisons Department, and a referee with technical knowledge of the manufacture of the article in question; the opinion of the expert officer of the Department of Industries shall be final.

375-E. Departments of Government which require articles of uniform to be made up for their officers shall give jails the first refusal of contracts for making them up from materials supplied.

375-F. If the Prisons Department undertakes the making up of uniforms for Government departments in any year, it must be prepared to do all the work required of it, so that the other departments concerned may not be put to the necessity of having to pay more on their orders by dividing them between jails and private contractors.

375-G. The consuming departments of Government shall be empowered, by means of penalty clauses introduced into the agreement with the Prisons Department, to get their supplies elsewhere at the latter's risk in the event of failure to complete supplies under contract within the stipulated time, and to debit against the Prisons Department the excess of the market rates over the jail rates. The enforcement shall, however, be subject to the specific orders of Government being obtained in each case of default.

375-H. The Inspector-General shall cause standing price lists of all jail-made articles likely to be required by all consuming departments to be compiled, revised from time to time, and circulated to all heads of departments for information.

375-I. Consuming departments of Government shall make it a standing rule to intimate their requirements sufficiently in advance at the beginning of the official year and also to enter into contracts with jails for definite terms of years.

375-J. Reports from heads of departments as to the satisfactory character or otherwise of supplies made by the Prisons Department shall be obtained by the Inspector-General and submitted to Government along with the Annual Report on the administration of Prisons.

Fixing of prices.

57. Where goods have to be sold to the general public, the prices should follow as closely as possible the market rate. But often there are no very definite, dependable and easily ascertainable market rates for similar articles.

The procedure for fixing prices prescribed in Mysore Rule 851, as in the corresponding Madras Rules 987 and 988 (which are more precise and detailed), is somewhat complicated if not artificial, and may occasionally result in the excessive valuation of articles for which market rates may not be available. This will not matter much in the case of articles supplied to Government departments including the Prisons Department. But where goods have to be sold outside, the prison authorities must have a discretion to fix prices at rates at which the goods will readily sell, as long as there is no undue competition.

Show-room for articles.

58. In order to reduce the waste of time involved in the conduct of retail transactions, articles intended for sale to the public should be collected and sold at a central show-room, which may conveniently be placed just outside the main entrance of the jail building.

Requirements of State departments.

59. The requirements of the State departments are so numerous and varied that it ought to be possible to employ all or most of the surplus prison labour available in meeting them. These requirements will include (among other things) clothing, boots, batons, etc., for the police, school and office furniture, table and floor carpets, tapes, tags, sealing wax, and similar articles of stationery, the manufacture and repair of tents, clothing for menial establishments, bed sheets, towels, bandage cloth and linen for hospitals, and even uniforms for troops.

Essential conditions.

60. An arrangement of the kind contemplated is, however, dependent on and presupposes two essential conditions.

One is that departments should be prohibited from placing their orders elsewhere, even if cheaper rates can be obtained from private agencies, for articles which can be prepared in jail.

The other is that prison manufactures should be conducted at least as well as they would be conducted by outside agencies; and for this purpose the instructors, the materials, and the plant must be thoroughly good.

Given an unfailing supply of labour, regular contracts, and efficient instructors and plant, the jails ought to be able, not only to make the contracts pay, but to give Government departments better supplies than they can get in the market.

Expert supervision.

61. Prison industries, in order that they may be organized on an efficient and economic basis, must be placed under skilled supervision and run on business lines. The practice of leaving the conduct of jail manufactures in the hands of a jailor, who has never had any industrial training, and who has merely picked up what he knows in the course of his service in the Prisons Department, is (as characterised by the Indian Jails Committee) essentially wasteful.

From the point of view of economy, it would certainly pay to provide expert direction in each of the larger jails. There should be a Chief Technical Instructor, preferably an officer of the Industries Department, and under him at least three trained instructors, one for each of the main industries—the textiles, carpentry and smithy, and metal-work,—with the auxiliary industries that may be included under them.

These instructors should be able to teach prisoners to work in the most efficient manner. They will take the place of the *maistris* now employed in the Central Jail and in the Mysore District Jail. The latter are not usually skilled instructors, and their function is mainly that of work overseers, with the drawback that they are not always able to enforce strict discipline and extract a proper amount of work from the men.

Industries suitable for jails.

62. There is a long list of industries, given in an Appendix to the Jail Manual, under the head of " tasks suitable for adoption in jails."

Printing.

63. Curiously enough, printing work is not included in the list, though it was being done with convict labour in the Bangalore Central Jail for several years. It is one of the recognized industries in English and British Indian prisons. It is the largest of those in regular use in the Penitentiary in Madras City, where some three hundred prisoners are often employed on it. It is one of the two major industries in the Yeravda Central Prison, and employs some 200 prisoners on an average, besides a certain number of free labourers engaged in view to contingencies. Three lakhs of rupees have been invested on the jail press at Yeravda, and the annual output is about the same amount. The work is thus both useful and profitable. Printing, along with the subsidiary work of binding, is, in our opinion, particularly suitable for the more intelligent prisoners, and should be revived in the Bangalore Central Jail.

Metal work, soap, phenyle.

64. We would like to include metal work in the list. This, as a matter of fact, is successfully carried on in the Salem Habitual Jail, and comprises (among other things) the making of aluminium vessels for use in jails, the manufacture of metal receptacles, and repairs of all kinds. The manufacture of washing soap and phenyle for jail use is likely to make for economy, and has been on that account introduced in the United Provinces.

Textiles.

65. Textiles form perhaps the most important industry in Indian jails, one eminently suited to prison conditions and with great potentialities. In several of the British Indian jails, up-to-date factories have been installed, and they can turn out cloth as good as any sold in the market. The Central Casual Jail at Coimbatore supplies khaki for the entire police force of the Madras Presidency, as well as many of the requirements of the hospitals. The introduction of electric power has enabled that jail to

undertake the manufacture of cloth on a mass scale, as well as to utilize machinery worked by electricity in the tailoring and other processes. Even so the orders for uniforms received from the various departments (including latterly the Military) are said to be far in excess of the output. Naturally the jail makes a good deal of profit. At the same time, it is able to quote low prices for the cloth manufactured. Prisoners trained in this jail are able, on release, to get jobs straightaway in the local mills. This illustrates what is one of the chief merits of the textile industry, namely, that thereby prisoners can be taught a trade which will be useful to them on release. Skilled men can always obtain work in the many weaving and spinning mills scattered throughout the country.

Methods of business.

66. The example of the Coimbatore Jail is particularly instructive in another respect. It shows that it is quite possible, with proper methods of business, to make such an institution fully self-supporting from the commercial point of view. The jail in question is run in most respects like a commercial factory, and its accounts in the manufacturing section are maintained on an up-to-date double-entry basis, which is, in fact, less complicated than the single-entry system which it has replaced.

System of accounts.

67. We recommend that the system of accounts maintained in Mysore prisons be overhauled and revised on similar lines, care being taken that, while they are full and accurate, they are not made needlessly elaborate.

Points for attention.

68. Without attempting to be exhaustive, we may indicate a few points which should receive particular attention:—

(i) Proper balance sheets and profit and loss accounts should be prepared every half-year.

(ii) Sectional accounts of cost should also be worked out.

(iii) All over-head charges, such as rents, interest, and audit and supervision charges, should be included in working out costs, as also reasonable deductions for depreciation.

(iv) Certain forms of convict labour, such as that employed on prison services, repairs to buildings, and general upkeep, are now treated as non-productive for financial purposes. But really they are all remunerative in the sense that, if convict labour was not available, outside labour would have to be engaged on payment.

All labour should be charged for at a reasonable rate, skilled and unskilled or insufficiently trained labour being valued differently.

(v) For the Stores Section, a quantity-ledger should be maintained by the Store-keeper, and a price-ledger by the Accountant.

(vi) Annual lists should be made of fixed assets, losses, tools, furniture, etc.

(vii) Other stock sheets should be prepared and compared with book balances, while differences, shortages, etc., should be adjusted in the year's or half-year's accounts.

(viii) Wastages of raw material should be properly worked out and scrutinized.

(ix) Technical examination of machinery should be periodically arranged for, and expert advice obtained when necessary.

(x) In the case of wholesale purchases of raw materials of large value like cotton, it will be advisable to have a responsible committee to supervise the transactions.

CHAPTER V.

Prison Offences and Punishments.

What are prison offences?

1. Section 47 of the Prisons Act, 1870, declares certain acts to be offences against prison discipline. One of them, which is referred to in very general terms, is "wilful disobedience to the regulations of the prison by any prisoner." The Act itself does not say anything further about these regulations.

2. It is doubtful whether the power conferred by Section 54 to make rules for "the government of prisons and for the guidance of all officers appointed hereunder" can be stretched to include a power to make regulations touching the behaviour and discipline of those who are simply prisoners. That it cannot be so stretched seems fairly clear from the circumstance that the later Indian Act, IX of 1894, now explicitly confers on provincial Governments a power to make rules defining the acts which shall constitute prison offences, in addition to the power to make rules for the government of prisons and for the guidance of officers : *vide* Section 59.

Classification of prison offences.

3. The later Indian Act provides also, among other things, for the classification of prison offences into serious and minor, and for fixing the punishments admissible in respect of the same. It does not appear that such a classification in respect of offences has been actually made, though punishments themselves have been classified as major and minor without indicating to which class of offences they are respectively to be appropriated. (Cp. Madras Rule 307.)

List of offences.

4. Over and above the offences specifically referred to in the Act of 1870, the Mysore Rules,—in this respect following the Rules in force in the British Indian provinces—sets forth a long list of acts, forty-three in number, each of which is to be deemed a wilful disobedience of the regulations of the prison, and as such a prison offence within the meaning of Section 47 of the Act.

5. These acts (some of which are in the nature of omissions or abstentions) are of varying degrees of enormity. They range from talking or laughing when ordered to desist, committing a nuisance in any part of

the prison precincts, giving untruthful answers to questions, and omitting to report prison offences, to holding communications with outsiders or prisoners of a different class, tampering with prison locks, stealing another prisoner's kit or clothing, damaging property, misappropriating materials and implements, violence or insubordination, and attacking a prison officer.

Minor and major punishments.

6. The Act that is in force in British India (unlike the Mysore Act of 1870) offers a wide choice of punishments, which are reproduced in the provincial Jail Manuals, classified respectively as minor and major punishments.

Degrees of gravity.

7. Neither the Prisons Act of 1870, nor the Mysore Jail Manual, makes any attempt at discrimination as regards the degrees of gravity attaching to acts liable to be treated as prison offences. Section 48 empowers the Superintendent to punish *any prison offence* with solitary confinement for any time not exceeding seven days, or with close confinement up to three days on a reduced diet, or with corporal punishment not exceeding thirty stripes of a rattan, or with hard labour for a period not exceeding seven days. In the case of an offence which the Superintendent does not think is adequately punishable by him as above, or of the repeated commission of offences against discipline by a prisoner, the Superintendent is authorised to make a report to a Magistrate, and the latter is empowered to pass a sentence of confinement in a cell or in irons for a term not exceeding six months, or of corporal punishment not exceeding thirty stripes of a rattan, or of rigorous imprisonment for a term not exceeding six months.

Additional punishment.

8. In addition, the Mysore Jail Manual authorizes the Superintendent to award certain other punishments involving loss of privileges admissible under the remission system (Rule 278); also to impose handcuffs and fetters in certain circumstances (Rules 279 to 282). We are unable to see any provision in the Act itself prescribing or permitting the award of these additional punishments. They are, it is true, penalties with which it may be desirable to arm the prison authorities; but the power to impose them should be expressly taken by statute.

Need for enquiry.

9. It is expected that every offence committed by a prisoner should be dealt with by the Superintendent himself and not by any subordinate official. It is well, at the same time, to emphasize that punishment should not be awarded summarily on the word of a Jailor or

Warder. A proper enquiry should be made into the charge, and full opportunity given to the prisoner to put forward his explanation or defence.

Every punishment should be recorded then and there in the punishment book, as required by Section 48.

Reaction to treatment.

10. Prison offences are often a reaction to treatment. Authorities acquainted with prison psychology agree in considering that the constant coming up against rules regulating the minutest acts and ways of prison life is apt to create resentment among the victims. Men cooped up for long hours in prison, without adequate occupation for their minds, and suffering from wrongs, real or imaginary, are apt to violate the rules by way of protest or in anger or despair, or simply to draw pointed attention to their grievances. And though wilful disobedience of rules cannot be overlooked, it is right and proper that punishment should be tempered by mercy and forbearance. It is not the Superintendent who cows down the spirit of the men by the most drastic penalties on every occasion that is the best disciplinarian, but the one who is able to preserve discipline without needless resort to severe punishment. "In a prison in which the members of the staff from the Superintendent downwards deal with prisoners justly and considerately, and try to help them with their work and their training, the tendency will be for prison offences to go down in number."*

Statistics of prison Punishments.

11. Figures showing the punishments inflicted in Mysore prisons during the past ten years are subjoined :—

Year	Daily average of population	Minor punishments					Major punishments				
		Warnings	Penal diet	Handcuffing and link fetters	Other punishments	Total	Separate cellular or solitary confinement	Penal diet with solitary confinement	Corporal punishment	Other punishments	Total
1930 ...	650·08	102	...	...	...	102	7	...	106	791	904
1931 ...	658·02	101	48	15	462	626	1	...	57	267	325
1932 ...	654·40	119	107	49	440	715	...	...	65	103	168
1933 ...	660·71	95	115	101	445	756	1	...	32	3	36
1934 ...	810·23	78	56	61	389	584	...	2	37	3	42
1935 ...	957·68	98	50	3	15	166	...	9	26	329	364
1936 ...	1,063·37	68	89	1	38	196	...	28	6	53	87
1937 ...	960·14	129	72	42	63	306	...	...	35	7	42
1938 ...	862·91	268	59	49	26	402	6	1	7	7	21
1939 ...	1,081·48	104	61	22	71	259	3	...	10	14	27

* P. K. Tarapore, "Prison Reforms in India."

12. The total number of punishments administered for breaches of prison rules has noticeably fallen in recent years. This is especially so in the case of the major punishments, that is, those awarded for more serious bad conduct. Corporal punishment, though still occasionally resorted to, shows a marked tendency to decline.

Deprivation of privileges.

13. To say that the only punishment should be the deprivation of privileges may be a counsel of perfection. But both good sense and practical experience suggest that punishment should not be too much in evidence, and that it should be awarded with discretion and adjusted to the gravity of the offence. For most offences of a not aggravated character, the deprivation of privileges, rewards and remissions ought certainly to be sufficient. It is a good rule to try forfeiture of remission and other privileges first, and follow it up when necessary with the lighter punishments, and reserve the heavier ones for those prisoners whose offences are really serious or who have not improved by light punishments.

In English prisons, although other methods of maintaining discipline are available, the forfeiture of marks remains the principal weapon which the rules place in the hands of the disciplinary authorities; and except for the graver offences, governors are instructed to rely on the forfeiture of marks and privileges rather than on physical punishments such as cellular confinement and restriction of diet.*

In India too, according to experienced administrators, the most feared result of a punishment is generally the loss that accompanies it of the privilege of receiving the next letter or interview due under the rules, and the loss of subsequent remission.

Corporal punishment

14. Under the Mysore jail system, corporal punishment can be inflicted practically for any prison offence, provided only that the Superintendent bears in mind the injunction contained in Rule 287, that "as a general principle, whipping shall only be resorted to as a last resource, and when other means of punishment have been tried and failed," and that "except in specially grave cases, it should not be awarded for a first offence." He is not required even to report the infliction of whipping to higher authority; it is sufficient if he notes in the punishment book the reason for the punishment.

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*L. W. Fox, "The Modern English Prison."

Confined in British India to certain grave offences.

15. In the British Indian provinces, it has been the practice, following the emphatic recommendation of the Indian Jails Committee in this respect, to confine the punishment of whipping to certain grave offences only, such as mutiny or incitement to mutiny, and serious assaults on any public servant or visitor.

Also a special report of every case of flogging inflicted is required to be promptly submitted to the Inspector-General of Prisons.

Recent action in certain provinces.

16. In recent years, the imposition of this punishment has been further circumscribed by action taken by certain provincial Governments.

Thus, in the United Provinces, the permission of a District Magistrate is made necessary before flogging can be inflicted in cases of mutiny, while in the case of any other offence, it can only be inflicted with the sanction of the provincial Government.

In the Bombay Presidency the Government have reserved for consideration the whole future policy in regard to the retention of whipping as a jail punishment, and have directed that, in the meantime, whipping shall not be inflicted without the approval of Government in each case.

Opinion of prison officials.

17. Several prison officials, past and present, whom we have had occasion to question, have expressed their conviction that, while the infliction of corporal punishment should be limited to serious cases of mutiny and violent assaults on officers, it should not be entirely abolished. They consider that whipping has "a very good deterrent effect" inside the prison, but declare that, if it is to be effective, it must be "inflicted immediately."

Criticism.

18. We doubt if public opinion will view without grave apprehension or mistrust the arming of prison officers with so terrible and summary a weapon. Civilized judicial systems are quite opposed to the rough and ready methods of instantaneous punishment, which too often is only another name for ferocity or revenge. Such methods may be inevitable in times of war, or of extreme social disorder, but cannot be tolerated in times of peace, especially against men deprived of liberty, and of the power of resistance. Punishment inflicted "then and there," that is, without an adequate interval for the dissipation of feelings of anger, hatred, or resentment, is rarely likely to be impartial or just.

The official whose harshness or slack control may very possibly have provoked or permitted the conditions of disorder necessitating repressive measures, is the last person who is fitted to take a dispassionate view of the case. It would not be too much to say that a prison official who can only maintain discipline by the terror of the lash is hardly a person fit to be trusted with authority over others.

English practice.

19. It is true that in England corporal punishment (with the cat or the birch) is admissible for the offence of mutiny or incitement to mutiny, and for gross personal violence to a prison officer or servant. The case for its retention is rested upon the need for defending prison officers against violence in the particular circumstances in which they are placed. It is held that, as individual retaliation is forbidden to the officer, he must be specially protected, not so much for his own safety as in the interests of good discipline in the service.*

It is important to note that the power to inflict corporal punishment was originally exercisable by the governors of prisons in England (corresponding to our Jail Superintendents), but that it was definitely taken away from them by the Prisons Act of 1898, and vested in the Visiting Committee, who can alone deal with reports of such offences. Of the Visiting Committee, again, not less than three, two being Justices of the Peace, must adjudicate in every case; their inquiry must be held on oath; and if, in the result, corporal punishment is ordered, the order must be submitted to the Secretary of State for confirmation, along with the evidence.

Growing opinion against corporal punishment.

20. Even in England there is a growing body of opinion against the retention of corporal punishment in prison, on account of its brutality, its degrading character, the risks of its indiscriminating application, and, not less serious, the feelings of unrest and resentment it creates both in the victim and in the other prisoners witnessing its infliction,—reasons which in the aggregate more than offset the deterrent effect it is supposed to have on them.

Causes of serious breaches of discipline.

21. That prison officials in India, unlike those in England, should be armed with authority to carry out sentences of whipping on their own responsibility without reference to higher authority, is urged by some on the strength of the assumption that the majority of prisoners

* L.W. Fox, "The Modern English Prison."

in India are illiterate and ignorant persons, ready to join in any trouble that is brewing without personal grievance of their own, and easily swayed by discontented leaders.

There is really little authentic information on which to base any useful inference as to whether the inmates of Indian or those of English prisons are more prone to serious breaches of discipline. Illiteracy or the absence of it can have little, if anything, to do with the greater or lesser prevalence of such offences. English prisoners may possibly be more educated as a rule, but not necessarily more intelligent by nature or less excitable, than Indian prisoners. On the other hand, ignorant men (it may be argued) are, if anything, more fearful of inviting unknown dangers of punishment than hardened criminals who are aware of the risks and feel confident of meeting them. After all, acts of mutiny and personal violence in prison may be due quite as much to deliberate premeditation on the part of literate and educated criminals as to sudden incitement of the ignorant by mischievous and calculating elements. It is the predisposing causes that are really of importance. And as to this there is abundant testimony from many of those intimate with prison life that the causes of such occasional violent breaches of prison discipline are largely psychological. "Nerves, temperamental incompatibility of individual prisoners and officers, and above all the personality of the governor, play important parts. A prison governor with insight, understanding and character is a far greater aid to discipline than the 'cat' will ever be."*

Corporal punishment not required as safeguard.

22. The plea that in the last resort corporal punishment may be a necessary safeguard which it would be unwise to give up, is not difficult to answer.

"The position of a prison officer is not essentially different from that of the police, who have exactly the same men to deal with, on occasions when escape is easier and therefore more likely to be attempted with or without violence. At a criminal lunatic asylum the attendants have to deal for long periods of years with many men convicted of violent crime, any of whom may attempt sudden and violent attacks. Corporal punishment is not used to maintain discipline or protect the staff at Broadmoor, yet one does not hear that the authorities have any difficulty in safeguarding the staff. If the police and the staff at Broadmoor are safeguarded without this odious form of punishment, so also can prison officials be."†

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* Calvert, "The Law breaker."
† Ibid.

Authoritative opinion and public sentiment.

23. One of the principles formulated by the International Penal and Penitentiary Commission was that "it is desirable to reach a stage where corporal punishment is no longer included in disciplinary punishments." This principle was approved by the Fifteenth Assembly of the League of Nations in 1934, and adopted by His Majesty's Government in the United Kingdom.

It is not surprising that the former Home Secretary, Sir Samuel Hoare, has been much criticized for retaining, in his Criminal Justice Bill the provision as to whipping as a prison punishment, while recommending its abolition as a judicial penalty for crimes against the laws of the land.*

There is no use of belittling the fact that public sentiment is emphatically opposed to this form of punishment. And it does not detract from the force and value of it that the opposition is based on humanitarian grounds without reference to mere expediency.

Position summed up.

24. To sum up the position: There is much evidence to suggest that flogging is a brutalizing form of punishment. There is reason to think that, far from acting as a deterrent, it acts in a contrary sense on the person flogged. There are many instances of men once flogged committing similar offences again. On the other hand, a reduction in its use in the past has been accompanied in other countries, not by an increase, but by a decrease in the offences for which it was formerly inflicted. This decrease is largely due to the relaxation of rigid discipline, the improvement of relations between prisoners and the prison staff with the advent of a better type of officers, and a decided change of emphasis in prison regime from degradation and punishment to training and reformation.†

It is futile to think of waiting patiently for a time to come when the character of the inmates of our prisons will change sufficiently to allow of corporal punishment being dispensed with as a disciplinary penalty. The best policy from all points of view is to abolish corporal punishment once for all, in full confidence that such a course can have none but beneficial results.

Other punishments.

25. The attaching of handcuffs, affixed on the prisoner's wrists, to a staple in front of the prisoner, is a cruel punishment, and ought to be done away with.

This and other punishments like bar-fetters and cross-bar-fetters, are not only brutal in their nature, but have

* *Vide* Law Times, November 26th, 1938
† Calvert, "The Law breaker."

no real corrective effect on any prisoner. As a matter of fact, they are scarcely ever administered. They may now be definitely abolished, as has already been done in British India, retaining only link chains, single and double, which will serve most purposes.

The maximum period for which link fetters can be continuously imposed should be reduced to thirty days in ordinary cases, and should not exceed three months in any other case.

The use of the belchain should be prohibited except as a strictly temporary measure when men are placed in insecure huts or tents outside a permanent jail, as for instance, on the occasion of an outbreak of cholera. Its use even then should be restricted as far as possible. As observed by the Indian Jails Committee, in any jail which has a regular wall round it, resort to the belchain is unjustifiable.

Solitary confinement.

26. Solitary confinement is often confused with cellular confinement. Both involve confinement in a cell (with or without labour); the difference lies in the fact that in the former case the confinement is altogether out of sight of other prisoners, and in the latter, not out of sight but beyond communication with others.

Separate confinement need not necessarily be solitary, and is generally less severe than the latter; and it is often courted by self-respecting prisoners for the sake of the quiet life.

Its abolition recommended.

27. It is curious that, while many persons, presumably without much direct acquaintance with the conditions of solitary confinement, have pronounced it as being pernicious and intolerable and likely to drive a man mad, others, and among them prison officers of experience, recommend its abolition for the reason that it is not really deterrent. As one of our witnesses put it: "No prisoner is really afraid of it, though he may pretend to be so. A prisoner in solitary confinement cannot be given much work, nor does he handle tools or instruments. Being well screened off, he sleeps away his time and settles plans to outwit the jail officers."

Even solitary confinement is not really solitary in the strict sense, as there will always be human traffic in the neighbourhood even if out of sight.

The Indian Jails Committee recommended its abolition for the reason that in practice it cannot be carried out, and because cellular imprisonment supplies

all that is necessary. This reform has since been adopted in British India, and is due for adoption here.

Further changes.

28. Further changes introduced in British India are in the direction of placing restrictions on the award of combined punishments. Thus, penal diet may be combined with cellular confinement, but not with standing handcuffs or whipping. Nor should a prisoner placed on penal diet be required to do any labour other than such light form of labour as may be approved by the medical officer in each case. Similarly, standing handcuffs cannot be combined with cross-bar fetters; and so on. It is necessary that early steps should be taken to introduce these and similar beneficial innovations in the local system of prison punishments.

Rule of silence.

29. In view of prevailing misconceptions, it may be useful to say a word or two about the so-called rule of silence in prison. The object of the rule (as pointed out by Ruggles-Brise in "The English Prison System") is not to impose a strict law of silence, which is unnatural, but to prevent harmful and profitless gossip, and dangerous corrupting intercommunication between prisoners.

As a matter of fact, the old rule of silence has been virtually abolished in English prisons, and the same may, it is presumed, be said of the prisons in this country. It is, however, enforced when prisoners are in parties or under supervision. In the workshops, conversation is restricted to much the same extent as in workshops outside. To put the matter shortly:—"It is not an offence to talk; but it is an offence not to stop talking when ordered to do so."

CHAPTER VI.

Reformative Influences.

SECTION A.

Education.

Ignorance a cause of crime.

1. Ignorance is one of the main factors in the causation of crime; and experience in most countries warrants the inference that the wave of crime tends to recede as education advances.

Education in prison.

2. Education in prison, instead of being optional, and carried on in a half-hearted, haphazard manner, must be compulsory and systematic.

Elementary instruction.

3. In most local prisons in England, there is in force an elaborate scheme of adult education. The classes are mostly taken by voluntary teachers, and they cover a wide range of subjects, some of which are purely educative, while others, such as short-hand, book-keeping and technical drawing, have a utilitarian value. In India, the large majority of prisoners are ignorant and illiterate, and it is sufficient if education in their case takes the form of elementary instruction in reading, writing and arithmetic, with the aid, where possible, of the simplified methods now coming into vogue, together with a little geography and local history.

Must be given to every prisoner able to learn.

4. In the large prisons in British India (the Central and District Jails) facilities are provided for education up to the elementary stage, but only to prisoners below the age of thirty and with sentences of not less than two or three years. It is thought useless to try to do anything with older prisoners or with short-term convicts, save in exceptional cases. We think a rather more generous policy is desirable for our State. Elementary instruction should, in our opinion, be given to every illiterate prisoner irrespective of age, provided he is not too old or unintelligent to learn, leaving it to each individual to benefit to the extent of which he is capable. The ideal should be, as far as possible, that every prisoner who comes into prison illiterate should, if he stays long enough, go out as a literate. Those who desire education beyond the elementary stage should be given the necessary books and any available assistance in the way of teaching.

Existing arrangements inadequate.

5. The Mysore Jail Manual (unlike those of British India) is wholly silent on the topic of the education of prisoners. There are no doubt some arrangements for teaching in both the Bangalore and Mysore Jails; but they are neither adequate nor systematic.

Department of Public Instruction.

6. The educational work in prisons should receive a full measure of co-operation, in the shape of supervision and advice, from the Department of Public Instruction.

Vernacular, with English in some cases.

7. Owing to the number of vernaculars spoken in the State, elementary education will have to be given in three or even four languages—Kannada, Tamil, Telugu and Hindustani. In a certain number of cases, English may have to be taught in addition to the mother-tongue.

Teachers to be employed.

8. For a prison with over a hundred learners, at least two teachers will be required. They must by preference be full-time men, prepared to work six hours a day, in which case they may be paid a salary of Rs. 35-1-50 each. While it will generally be necessary to employ paid instructors, the voluntary help of outsiders should also be welcomed. At the same time, the services of literate prisoners should be utilized either to read to or instruct their fellows, special remissions being given to them by way of encouragement.

Class-hours.

9. It is a standing rule in British Indian prisons, following the Indian Jail Committee's recommendation, that the hours devoted to education shall be so arranged as not to interfere with jail labour. The practice in English prisons is to hold the classes in the evenings, when labour is over for the day. But this is not being done in Indian jails in the absence of proper lighting arrangements and of some form of class room. The classes are therefore usually held in the morning hours. The same arrangement obtains in Mysore jails, and may, for the present, continue. The class hours may be from 7-30 to 10 in the morning for prisoners below twenty-one years, and from 1-30 to 3-30 in the afternoon for the older ones, the men being taught in convenient batches.

SECTION B.

Books and Newspapers.

Prison library.

10. Elementary teaching forms only a portion of the beneficial influence which may be brought to bear on the inmates of prisons. The prison library can and ought

to play at least an equally important part in moulding their minds and morals. It has been described as "the most successful factor in promoting the physical, mental, and spiritual well-being of the unhappy men who are congregated in convict prisons" in England.*

At first blush this may not seem to apply to the same extent to the bulk of the inmates of Indian prisons; but if a policy of combating illiteracy and ignorance is actively pursued, the reformative influence of libraries will be increasingly felt.

Its contents.

11. The prison library should be provided with an ample supply of books and periodicals in the vernaculars and in English, adapted as far as possible to the different stages of intelligence and education to be found among the inmates. The contents should be varied in character, and comprise books on general knowledge, popular science, religion, history, fiction and literature, in fact books on all topics which are wholesome and likely to be interesting to the men concerned.

Selection of books.

12. Selections should be carefully made, and always from the point of view of the prisoners for whose benefit the books are intended. It is a matter of complaint in some jails that the libraries are overstocked with religious and moral books. Books of a professedly "improving" character are not necessarily those that are the most largely read. Adults, whether in or out of prison, may be trusted to choose what interests them most, and this usually is what is best for them. But the choice in some cases may be perverted, extending to books of an indecent, anti-social or otherwise evil tendency. It is these that have to be excluded in general interests. In any case the right to censor books should be exercised sparingly and with proper discrimination.

Procuring of books by prisoners.

13. There can be no objection to prisoners having books of an unobjectionable character sent in by their friends, or buying them out of their private money. Literate prisoners may be allowed to read any such books to other inmates.

Cost of jail libraries.

14. Jail libraries should, as far as possible, be got up with a minimum of expense to the Department. A small grant from Government, based on the population in prison, would always be necessary; but if prison authorities and non-official visitors sufficiently interest

* Hobhouse and Brockway: "English Prisons To-day."

themselves, it will not be difficult to supplement this by gifts of books from private persons.

Accessibility of library.

15. The guiding principle in connection with the prison library is, within practical limitations, to encourage rather than restrict good reading. It is of little use having a well-stocked library, if prisoners do not have adequate facilities for getting the books that they want. Often the so-called library is no more than a solitary shelf kept under lock and key in a more or less inaccessible place. It is not always easy even for well-read persons, much less for the ordinary run of literate convicts, to select the books they would like to read merely from seeing the titles arranged in a list. And books selected are not, as a rule, made available without a degree of formality and delay which may detract from the zest for their perusal.

The most convenient arrangement would be to place the library in the same block in which the educational classes are held. One big room or hall with movable partitions would generally suffice for these purposes, as well as for those occasional discourses at which all prisoners are meant to be present. It could also be used as the indoor recreation room.

Supply of writing materials

16. Note-books and pencils should be allowed to well-behaved prisoners to enable them to take notes from books borrowed from the library or otherwise to make a special study of some particular subject. Such note-books, if properly used, may be allowed to be taken out by them on discharge.

Apart from this, there can be no serious objection to educated prisoners with a bent for writing being permitted to procure the necessary stationery at their own cost. While they cannot of course be permitted to pass round any such written matter, they need not be prevented from taking it away with them when they leave prison.

News should not be excluded.

17. A longing for news of the outside world is a natural desire, especially for those who are themselves excluded from it. And nothing is gained by its suppression through the banning of news in prison. The effect of this would simply be to shut the prisoner out from knowledge of that outer world into which he must go back after release.

A knowledge of current events helps a man in prison to think, while ignorance of them is a real handicap to the recently discharged prisoner, and acts to his manifest

disadvantage. Apart from the mental value of newspapers and periodicals to the more thoughtful prisoner, it is evident that, once prisoners are allowed to talk together, it is well to provide them with healthy topics for conversation; for (as an author with much prison experience has put it) "prison topics are apt to be dark, dirty, and unprofitable." *

How news may be made available.

18. In England there is a system under which the more important items of news are read to the assembled prisoners, at regular intervals, by the chaplain or other official. A suitable arrangement for Indian prisons would be to make important news items and other interesting particulars, now broadcast to the public through the radio, available also to the generality of prisoners, or to arrange for the reading out of select news matters contained in reputable newspapers irrespective of their politics, or in special periodicals prepared for circulation in jail as is now done in certain prisons.

Educated prisoners who can afford it should be allowed to get their own papers.

SECTION C.

Religious and Moral Instruction.

Importance of religious and moral instruction.

19. Religion (in a broad sense as including the basic facts of the universe and the essential principles of life and conduct) is the strongest force which can be enlisted in the work of reclaiming the offender. The importance of providing regular religious and moral instruction for prisoners in jail cannot be too strongly emphasized.

Should be non-sectarian.

20. Most persons will agree that the instruction given should be non-sectarian, and directed to the imparting of fundamental facts and principles rather than the inculcation of dogmatic beliefs.

There does not seem to be any need for religious teaching to go deeply into the various tenets and dogmas of each religion. In fact, this may even be inadvisable for several reasons. All that is really necessary is to try to implant in the minds of the prisoners the elementary principles of truth, honesty, helpfulness, loyalty, obedience, respect for the rights of others, purity of thought, word and deed, and the like.

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* L. W. Fox, "The Modern English Prison."

Charts containing crisp and striking moral precepts and rules of conduct, rendered in the vernaculars, may usefully be hung up in all the cells and barracks.

As far as possible, general and common to all.

21. It should, indeed, be possible to simplify the whole system and method by giving the instruction a predominantly factual character, combining both ethical, philosophical and scientific elements on a broad, non-controversial, practical basis. The instruction can in that case be made general and common to all—which is no small advantage. It will still, of course, be open to recognized private organizations, if they wish it, to arrange for denominational or sectarian teaching to their own co-religionists and at their own cost.

Agency.

22. Such a policy is all the more necessary in view of the large number of religions professed by the inmates of our jails, and the difficulty of arranging for a priest of his own exact persuasion to minister to the wants of each prisoner. Hindu and Muslim preachers are now appointed, with an allowance to cover their conveyance expenses; and though it is doubtful if the results are commensurate with the trouble, or come up to expectations, the arrangement may for the present be continued.

In the case of the official non-sectarian instructors borne on the staff, if they are competent and experienced men, it may be worth while to pay them anything from Rs. 30 to Rs. 50 a month according to merit and length of service.

Proselytization and interference with religious and caste prejudices.

23. It is a wholesome rule, laid down in explicit terms for British Indian prisons, and requiring to be adopted here, that religious and moral lectures to convicts in jail shall be allowed only on condition that no proselytizing is carried on under the cloak of religious and moral instruction, and that lecturers should confine their attention to prisoners of their own faith. It is equally important that all interference with genuine religious and caste prejudices of prisoners should be carefully avoided.

Lectures and addresses.

24. It is found by experience that the systematic introduction of outside influences, in the form of lectures and addresses on lay subjects, calculated to stimulate healthy interest and enlarge the mental outlook, has both an educative and a moral value. It should as such be encouraged.

Range of subjects.

These lectures may cover a wide range of subjects of general interest (politics excluded) like health, hygiene, sanitation, first-aid, improvement of crops, rural uplift,

places and scenes of interest, lives of great men and heroes, striking incidents from history or romance, and so on. When possible, they may be illustrated by lantern slides or motion pictures on a screen.

Choice of speakers.

25. Instead of only one or two stereotyped speakers, it would be better, where possible, to have several on the list, whether from among members of the prison staff or from kindly well-wishers from outside. Efforts should be made for this purpose to get in touch with social and public bodies interested in subjects of the kind referred to. The speakers should, of course, be chosen with care in every instance.

In exceptional cases, even educated and respectable convicts may be permitted to undertake the task under supervision.

Discussions and debates.

26. Occasional evening discussions and debates on subjects chosen by the prisoners themselves or suggested to them have proved in English prisons to be of great value. They are said to have a good psychological effect; they provide healthy food for thought during many solitary hours and so tend to prevent morbid introspection; and they break the unavoidable monotony of institutional life, and provide a valuable mental stimulus. It is doubtful whether the conditions of Indian prisons afford equal scope in this respect; but the system may be tried at all events experimentally.

SECTION D.

Recreation.

Importance of recreation.

27. Recreation, while a necessary element of well-being for most individuals, is particularly important in the case of the inmates of prisons, and is closely connected with the question of the proper utilization of leisure time.

Interval between lock-up and sleeping time.

28. Prisoners are at present locked up shortly after the evening meal, the hour being from 5-30 to 6 P.M. in the cold weather, and from 6 to 6-30 P.M. in the warmer months. After lock-up they spend a weary time until they can go to sleep.

The prisoner confined in his cell spends the long period in isolation "with nothing to relieve the blank

vacuity of consciousness except morbid brooding, unhealthy images and idle dreaming, or in some cases the torture of obsessions." *

In the case of prisoners locked up in association barracks, the three hours between lock-up and sleeping time have been characterized as "the most dangerous of the twenty-four," for they usually have nothing to do but sit and talk to their neighbours. "This is the time when plots are hatched, grievances magnified, further crimes planned, and recruits obtained."†

It is not too much to say that the filling in of this long interval before sleep is a very urgent part of prison reform.

Must be occupied usefully.

29. A well thought out scheme for occupying it usefully is an absolute necessity. It will necessarily involve a postponement of lock-up time by about a couple of hours, and a corresponding increase in the hours of duty of the subordinate executive staff. This latter inconvenience will, however, be materially reduced by the recommendation we are making in another connection, for a lightening of the maximum period of attendance of every official to eight hours a day.

Difficulties not insuperable.

30. Administrative difficulties of this nature are, after all, not insuperable, and they should not outweigh the need for relieving, as far as may be, the intolerable strain which has to be endured by human beings shut in on themselves for several hours at a stretch.

Efficient lighting indispensable

The success of any such scheme is dependent on there being efficient lighting, without which nothing can be done. Where at all possible, every jail should be lighted with electricity; if not, by really good oil or petrol lamps. The lights in barracks, which are now hung too high, should be lowered sufficiently to make it easy for literate prisoners to read.

Outline of scheme.

31. Under the scheme we have in view, all open-air recreation, whether in the form of drill and gymnastics, or of organized games like football and basket-ball, should come before the evening meal, which has to be served when there is still light. While some are playing in the open, others may occupy themselves with indoor games such as chess, draughts, and carrom. Those of a studious bent of mind may be allowed the use of books.

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* Hobhouse and Brockway, "English Prisons To-day."
† F. A. Barker, "Imprisonment."

32. After the evening meal, and when the lights have been turned on, an hour may be set apart for religious and moral instruction, for general lectures, and for discussions and debates, each of these items being taken up two days in the week, varied on Sundays with common prayers and recitations from the scriptures. Another hour may be devoted daily to *bhajanas*, music, and listening to news summaries.

This will leave just about an hour until 9, which may be given up to radio music, news bulletins, and wireless talks, which can be listened to even after the prisoners are locked up, and without interfering with their preparations for going to sleep.

Wireless installation.

33. Prison officials, past and present, like everyone else whom we have questioned, strongly favour the installation of wireless sets as being a material aid to recreation in prison. They now form part of the prison equipment in many British Indian prisons, and have occasionally been presented by private donors. A radio installation is certainly a cheaper, easier, and in several respects more convenient arrangement than a band or orchestra, though there is no objection to the prisoners being allowed to organize one among themselves should the necessary facilities exist.

SECTION E.

Vocational Training.

Vocational training.

34. We have referred, in the chapter relating to the Employment of Prisoners, to the very important subject of vocational training for the inmates of jails. Later on, when dealing with the special institutions intended for juveniles and adolescent offenders, we shall revert to the subject with particular reference to these classes of persons.

Co-ordination between education and industrial training.

35. The Indian Jails Committee stressed the necessity for keeping steadily in view the principle of co-ordination between general education and industrial training, regard being had to the need both for reforming prisoners and for preparing them to regain their proper place in society on release. This principle has been accepted by the provincial Governments in British India, and formally incorporated in their Jail Manuals. Similar action is recommended here.

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Jail industries.

36. The training in view must, ordinarily, be given in connection with the industries carried on in jail.

Machinery and handlooms.

37. We have already stressed our conviction that no system of vocational training can succeed unless it trains a man to work with modern machinery. This conclusion is further reinforced by testimony concerning the particular case of the weaving industry. Thus: "Many prisoners become very skilful with the hand-loom, one of the main jail industries, but it is doubtful if this trade is now of much use to released prisoners. Machinery is so universal for weaving, and the quality of cloth so much superior and even cheaper than hand-made cloth, that it seems essential that machine looms should be introduced into all jails, not only as a measure of economy but to teach a proportion of the prisoners a trade that will be useful to them on release. Efforts at reform without some practical method for earning a livelihood are useless." *

What industries to be taught.

38. Apart from these considerations, it is right that such men as already possess a knowledge of some industry should be kept at it and improved in their knowledge. Others should be taught crafts that they can take up after release, such as carpentry, mason's work, brush-making, shoe-making, tailoring, tanning, etc.

Short-sentence prisoners.

39. Attempts should be made to train the purely casual labourer in some industry which would be of service to him in social life; and these attempts should not be hampered by the presence of large numbers of men with short sentences—a further reason why such prisoners should be removed altogether from the central prisons.

SECTION F.

Interviews and Letters.

Interviews and letters: their importance.

40. The maintenance of a close touch between a prisoner and his family and reputable friends is regarded by modern opinion as a beneficial measure of no little importance.

No one will doubt its reformative effect who can realize the mental agony suffered by a prisoner through the long silence and the absence of news from home, especially in the case of the man whose home is poor and whose family is struggling.

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*W. J. Powell, "Indian Prisons."

The effect, on the other hand, on the minds of the relatives and friends, of reasonable opportunities for communicating with the prisoner, is a consideration which must not be ignored.

Present rules.

41. Progress, then, should undoubtedly be in the direction of encouraging rather than restricting such humanizing influences; and the rules on the subject should be made as liberal as possible.

At present they cannot be said to err on the liberal side.

A non-remission prisoner is now allowed to have one interview and to write and receive one letter, after the first six months of his term, and thereafter at intervals of four months or more as may be fixed by the Superintendent. Those who come under the remission rules are eligible, according to their class or grade, for slightly enhanced privileges.

In British India, the interval in the case of a C class prisoner whose conduct has been good, is fixed at three months, and in the case of B and A class prisoners at one month and a fortnight, respectively. Under special circumstances, the Superintendent may allow interviews or letters more frequently.

There is reason to think that the long interval between letters often leads to trafficking between dishonest warders and convicts.

Scale of privileges should be extended.

42. In our opinion the scale now prescribed for ordinary prisoners is insufficient, and that, apart from any exercise of the Superintendent's discretion and irrespective of remissions gained, every well-behaved prisoner should be permitted as of course to have interviews once a month and to write and receive letters at intervals of a fortnight. This will equalize the privileges of all classes of prisoners in this respect.

Curtailment as punishment.

43. The right to deprive a prisoner of the privileges in question as a punishment for a prison offence should be sparingly exercised, as, otherwise, that would be punishing the friends and relatives at least as much as the prisoner.

Simplification of procedure.

44. The procedure for the grant of interviews should be made as simple as possible, and divested of needless delay and formality.

At present interviews other than those ordinarily provided for can only be permitted under the special authority of the Inspector-General. This will often necessitate delay and cause much inconvenience to

relatives and friends who may have come, it may be, from distant places, to bring the prisoner's sick wife or child or to settle urgent domestic affairs with him. In such cases the rule should be relaxed, and the Superintendent empowered to grant the interviews himself.

Facilities as to letters.

45. The facilities for having letters written on behalf of illiterate prisoners should be amplified. Members of the prison staff are expected to give, and do ordinarily give, their assistance; but it might be well for the higher officers to set their faces against tendencies to corrupt or unhelpful behaviour on the part of underlings.

At the same time, no restriction should be placed in the way of any fellow-prisoner offering to help another in this respect, provided the service is rendered during the off-hours.

Writing materials should be supplied free to such prisoners as need them.

Withholding of letters.

46. The right of the Superintendent to withhold letters should be sparingly exercised, and never without the most satisfactory reasons. We may say, indeed, that no letter to or from a prisoner should be withheld unless it is clearly obscene or scurrilous, or contains matter in the nature of an incentive or incitement to a criminal act or prison offence.

Record of reasons.

47. If the Superintendent declines to sanction an interview or the sending or receiving of a letter, he should record his reasons clearly in the remarks column of the Register of Interviews and Letters.

Enquiry by non-official visitors into facilities.

48 Non-official visitors should make it a point to look into the adequacy of the facilities obtaining in the particular institution to which they are attached. They should, among other things, ascertain whether prisoners are aware of the extent of their privileges and possess sufficient facilities for exercising them.

Arrangements for interviews.

49. It is desirable that interviews should be arranged, not in a box or behind bars, but in a properly constructed interview room provided at or near the main gate. They must, no doubt, ordinarily take place in the presence of a prison official; but it seems unnecessary to insist on the prisoner being "thoroughly searched both before and after the interview," as the rules now require, unless there is good reason to suspect that, in spite of the vigilance of the official present, some objectionable article has actually passed.

The arrangement in British Indian prisons, of putting up a double wire-mesh screen between the prisoner and the person interviewing him, may be adopted with advantage. This precludes the passage or introduction of prohibited articles, but does not prevent the parties to the interview from freely communicating with each other.

CHAPTER VII

Incentives to Industry.

SECTION A.

The Remission System.

Value of remission system.

1. For ordinary prisoners the necessary stimulus for industry with good conduct is provided by the hope of remission of sentence. It is of special value in the case of men with long sentences. The fear of losing remission marks not only acts as a powerful deterrent against idleness and misconduct, but tends to a marked improvement in the tone and demeanour of prisoners, and so helps materially in the maintenance of order and discipline.

The remission system is, in fact, the great official incentive; and experience shows that it is more effective in practice than the fear of losing any portion of the money earned as gratuity.

Ordinary remission.

2. Ordinary remission under the Mysore Rules is confined to sentences of imprisonment for six months and above, including sentences of simple imprisonment where the prisoner labours voluntarily for a continuous period of not less than a month. It has been extended in some provinces of British India, but not in others, to sentences of imprisonment, whether rigorous or simple, for not less than three months. We see no particular necessity for lowering the limit in this way, and thereby reducing the period of imprisonment to be undergone by prisoners with already short sentences below six months. All these will, under our recommendations, be confined in the District jails; and it does not seem expedient to make differentiations among them as to those eligible and those not eligible for remissions according as their sentences do or do not exceed three months.

Forfeiture of past remission.

3. Some of our witnesses and correspondents are opposed to the forfeiture of remissions which have already accrued. But we do not think the objection can be altogether sustained. The argument that what has been already earned by good conduct and industry in the past should not be forfeited for subsequent misconduct, is a plausible one; but it is not a principle ordinarily acted

upon in the outside world. If it were conceded, then no penalty, fine or compensation could be enforced in the majority of instances, and its acceptance in prison would make order and discipline very difficult if not impossible to maintain. It is possible, and no doubt desirable, to make a distinction in respect of money rewards which take the form of gratuity. The point will be further adverted to presently. But as a safeguard against inconsiderate action, we recommend that forfeiture of past remission should be imposed only with the sanction of the Inspector-General. This is also the practice in British India.

Remission allowable for prison duty.

4. Convict officers are allowed ordinary remission on a higher scale, namely, eight days per month for convict warders, six days for convict overseers, and four days for convict night-watchmen. This is by no means excessive, particularly in the case of the warders, who are usually recruited from the best class of prisoners and are often men of some position outside.

Having regard to the fatiguing nature of night duty, the rate in the case of convict night-watchmen may be increased from four to five days per month, as in British India.

Prisoners employed in prison services, such as cooks and sweepers, now receive two days extra as ordinary remission per quarter. This may likewise be increased to three days, in consideration of the fact that the prisoners so employed have to work on Sundays and holidays, and are deprived of other opportunities of earning rewards open to prisoners employed on ordinary labour.

Convict nursing orderlies, who perform their duties satisfactorily, should be awarded extra remission and gratuity at the same rate and scale as are prescribed for convict night-watchmen.

Conversion of gratuity into remission.

5. Convicts have the option of converting the gratuity earned by them for extra work on remunerative labour into remission of sentence calculated at four annas per day. The rate may be fixed at two annas per day, thereby allowing of a longer period of remission being earned by reason of specially industrious work. The same rate of remission may be allowed, in the case of convicts sentenced to terms of two years and below, in lieu of any gratuity earned. This will be in accordance with the rate prescribed for both cases in British India

Remissions on special occasions.

6. With the regulation and liberalization of the grant of remissions, we think that remissions on special

occasions need not be granted. They have no relation to the true rationale of such rewards, namely, good conduct and industry on the part of the person benefitted; and, being dependent merely on accidental or unexpected events, they can have little, if any, moral effect on the prisoner.

They also trench on the principle that the sentence, being deliberately fixed so as to be commensurate with the crime, ought not to be modified save by continuous good conduct on the part of the offender and by such a change of his outlook as may justify and warrant a mitigation of the severity of the original sentence.

Remissions in the case of habituals.

7. Even in ordinary circumstances, the operation of the system of remission is not always reassuring. As one of our correspondents has put it, a sentence fixed by the court as the proper minimum for a case is often reduced out of all recognition by the process of the various remission rules.

Habituals as a class are well behaved in jail; they therefore tend to earn the maximum remission. Whether such liberal remission as the rules allow should be granted to habituals with several previous convictions is open to question. Such a concession appears in many ways to be a stultification of the measures built up in the course of years for the protection of society. It also increases the work of the police and the courts, as these individuals will almost certainly commit further crime and return to jail.*

No doubt it does tend to a more hopeful outlook on the part of the prisoner, and to that extent is an incentive to good conduct while in jail. But, on the whole, we are inclined to think that the remission that can be earned by the habitual convict should be gradually reduced according as the number of his convictions increases. The reduction may begin after four convictions, and cease after eight.

SECTION B.

GRATUITIES.

Gratuity: its necessity.

8. The payment of gratuity on an adequate scale is very necessary, particularly on two grounds.

First, it acts as a stimulus to the prisoner to work hard and behave well. The prisoner (especially of younger

* W. J. Powell, "Indian Prisons."

age) learns that his work has a value which provides him with additional amenities, and is not merely a rather unpleasant form of prison discipline to be got over quickly and avoided as much as possible.

Secondly, the earning of gratuity will materially help in his rehabilitation. No prisoner after a long sentence can face the world without enough money for a start.

Gratuity earned should not be forfeited.

9. It is on these grounds, particularly the second, that we support the Indian Jail Committee's view, that the gratuity earned by a prisoner should be the prisoner's own property, and should not be liable to be forfeited as a jail punishment.

Prisoner's power of disposal.

10. The prisoner should be permitted to dispose of a certain portion of his gratuity, not exceeding one-half, for his own needs and comforts in jail, and the rest should be accumulated for his benefit and made over after the expiry of his sentence.

Vouchers instead of money.

11. Instead of payment in money, which is not desirable in prison, gratuity may take the form of vouchers, in exchange for which the prisoner may obtain through the jail authorities such little needs and luxuries and extra comforts of an approved kind as he may desire, in the shape of food, cigarettes, sweets, books, etc.

Pecule system.

12. A gratuity, which is a sum of money earned for general industry with good conduct, without reference to the value of work done, is quite different from what is known on the continent of Europe as the "Pecule" system, under which a prisoner receives a percentage of the actual profit of his work, which he is allowed to spend on diet or otherwise during detention.

Punjab experiment.

13. A variation of the Pecule system is being tried as an experiment in the Punjab. All prisoners sentenced to labour are eligible to earn a wage at the rate of Re. 1-4-0 per mensem from the day they enter a jail. The wage is reckoned on a daily basis, and is confined to the working days of a week. The amount earned by each prisoner in any week, (*i.e.*, about five annas) may be expended by him, to the extent of one-half, in purchasing small luxuries. The other half is retained and accumulated for presentation to the prisoner on his release. The expense involved is likely to be large, and it is too early yet to say if the result is worth the expenditure.*

*F. A. Barker, "Imprisonment."

SECTION C.

Earning Scheme.

Output of labour in relation to cost.

14. In India and in England the State provides all the necessities of life for the prisoner, but demands from him a full day's work. On the continent of Europe, however, another system is widely used. The diet supplied by Government is usually very meagre and monotonous, but each prisoner can earn by hard work a small monetary allowance wherewith he can purchase extra food and other luxuries suited to his taste. Under the continental system, each prisoner is given for his own use about a tenth of the value of his output. The balance goes towards the expense of prison administration. The result of this policy is that the convict prisons are nearly self-supporting.*

System of paying wages for work.

15. There is a strong movement in many countries for the extension of a system under which every person should be paid full wages for his work. Out of the wage earned, a fairly large portion, say, forty per cent, would be deducted for the cost of his maintenance, and a smaller one, about ten per cent, left to the prisoner to provide himself with tobacco or other permitted luxuries. Out of the balance, half would be utilized to help to maintain his dependents, and, as some would have it, also to make some restitution to those whom he may have wronged by his crime. The remainder would accumulate until the man was released, and then used to give him a fresh start in life.

The general principle of the system is that, whenever work can be measured, payment shall be made on a piece-work basis either to the individual prisoner or for the benefit of his group. In the case of work which cannot be readily measured, payment is made on the 'contract' basis, whereby a definite weekly sum is fixed for a certain job and the money divided among the men employed.

Anticipated results of system.

16. The payment of wages, according to some, would entirely change the industrial problem in prison. "Its first result would be to give dignity and value to the work in the minds of the prisoners; their daily labour would no longer be merely a 'task.' Secondly, it would enable the prisoners to contribute towards the maintenance of their

* F. A. Barker, "Imprisonment."

wives and families whilst they were in prison. But beyond this, if prisoners were paid the standard rate of wages, a reasonable sum having been deducted for the cost of maintenance, the necessity for restricting prison industries to such as do not involve competition with any particular trade or industry would disappear."*

Its advantages.

17. The earning system is considered to be an important factor in prison training. To begin with, it is an effective means of teaching the *habit* of work. Next, it tends to increase the output of jail labour, and at the same time promotes a sense of independence and self-reliance. Lastly, it serves (through the concession to purchase small comforts) as a powerful aid to discipline. For all these reasons, it is regarded as one of the most valuable innovations made during recent years.

Practical difficulties.

18. There are, however, various practical difficulties which offset some at least of the advantages claimed for the system by ardent reformers. To devise a scheme of payments whereby the sums paid shall be accurately adjusted to the work done by the prisoner is by no means easy. Much of the work done in prisons does not lend itself to measurement, and the proper measurement of other work requires a large expenditure of time and clerical labour, while any system which resulted in the automatic award of a weekly payment to every prisoner who had done a possible week's work would be no improvement on the existing situation.†

Scheme for assessing wages.

19. This particular difficulty is sought to be avoided by a scheme introduced in recent years in several of the English prisons. The rates of pay differ slightly in different places. In the prison at Maidstone, there are various parties of prisoners, of whom three are engaged on piecework as tinsmiths, carpenters, and tailors. A man belonging to any of these has to show a minimum output of 40 hours a week, for which he is paid 4d. Over and above this he is paid at the rate of ¼ d. an hour overtime up to a maximum of 9d. The men belonging to the remaining parties are paid at a flat rate, varying from 4 d. to 9 d. and are eligible for promotion through the various grades according to vacancies and skill. Earnings may be expended on tobacco or sweets and jams, or may be banked with the steward to accumulate till discharge.

* Hobhouse and Brockway, "English Prisons To-day."
† L. W. Fox, "The Modern English Prison."

All men receiving pay contribute 1d. every week into a common fund, which is utilized at the governor's discretion for expenditure calculated to benefit the earners. The scheme is reported to be working beneficially both as a stimulus to production and as an aid to discipline.

Suitability to Indian conditions.

20. Experienced prison officials in India are inclined to think that a wage distribution system is unsuited to the conditions of this country. One main reason assigned is the inferior standard of efficiency of labour and the consequent lower rate of wages payable, as compared with western countries. It is, in their opinion, extremely doubtful if, after deducting the cost of maintenance in prison (food, clothing and lodging,) and a percentage for cost of administration (guarding, medical attention, etc.), there will be anything much left that can go towards the formation of a wage distribution fund. Further, the recording, valuation and apportionment of each prisoner's share of work and quota of net earning is an elaborate task that would require the services of a large staff of accountants and book-keepers. The staff, too, must be meticulously honest; otherwise there would be much room for favouritism and corruption.

Trial suggested in modified form.

21. We are not, however, convinced that the last word has been said in the matter. Though the question as a whole is still in an experimental stage, informed opinion is steadily moving in the direction of giving the prisoner a tangible interest in the output of his own labour. It is not possible, in any case, to rule out a scheme which seems to have given such hopeful results in other places; and so we would suggest that it may be given a trial, in a modified form, that is to say, in connection with all that part of the earnings of prisoners which may correspond to extra work and specially good work done over and above the prescribed quota. In this case, no deductions need be made on account of establishment, overhead, maintenance, and other charges.

Percentage of labour charges to be funded.

22. Even apart from a regular earning scheme, it will be desirable, as an incentive to prisoners to work diligently, and also to help to set them up after discharge, to fund a defined, even if small, percentage of the labour charges assumed in the calculation of manufacturing costs, and to credit the same to their personal accounts, the amount becoming payable to them at the time of their discharge.

CHAPTER VIII.

Physical Well-being.

SECTION A.

Diet.

Jail dietaries.

1. Jail dietaries in Mysore as elsewhere in India have been arrived at after careful and expert examination. The diet scales for the various classes of prisoners have been arranged on a scientific basis, so as to provide a proper balance of the necessary dietetic elements without undue monotony. They are just sufficient, and no more than sufficient, to keep a man in good health, and have for the most part been found by experience to serve their purpose well.

Distribution of boiled rice and ragi.

2. We have examined the dietary in vogue in all the State prisons we have visited. The quantity of boiled rice or ragi allowed per prisoner is sufficient in the case of the generality. It is even occasionally too much for some prisoners, but not quite enough for a few others. In the latter case a small addition is usually made at the time of distribution, ordinarily without any fuss or trouble being made by other prisoners. But in order to obviate complaints of partiality, there may be an express rule permitting a slight increase of quantity, up to two ounces, in the case of prisoners who are found to require the same.

Prisoners are entitled to have their ration weighed if they suspect shortage. To facilitate this, a dietary card should be posted in every prison kitchen giving the weight of each item.

Ragi cakes.

3. Instead of the individual allowance of ragi meal being made into a bulky ball, option may be given to a prisoner to have it converted into two or three thin cakes and rendered somewhat crisp, as being more digestible and likely to be better appreciated by him.

Dhall.

4. Four ounces of dhall are issued daily to each labouring prisoner, which seems sufficient. The quantity issued to non-labouring prisoners is, however, only two ounces, as against four ounces in Madras prisons, and may be increased to three ounces.

Soup and curry.

5. The quantity of soup or curry served to each prisoner seems susceptible of a slight increase. With a

good kitchen garden, it would be possible to use a larger variety of vegetables in rotation, and also more of miscellaneous greens and less of potatoes and solid vegetables.

Variety in food.

6. As the prisoners have to eat the same food day after day for years, it is important, without departing from the essential structure of the dietary, to introduce as much variety as possible into the food provided.

Butter-milk.

7. Butter-milk is at present being issued twice a week and curds once a week in Mysore jails. It has been strongly represented to us not only by prisoners, but also by all prison officials and other persons questioned by us, that butter-milk should be given daily.

Considering that butter-milk is an invariable part of vegetarian diet in this country, that its regular use is, as far as it goes, conducive to health, and that the extra cost will be trifling, the suggestion is a quite reasonable one.

The practice in Madras jails is to give eight ounces of butter-milk to each prisoner daily, except twice a week when curds are mixed with the rice food distributed. This seems a good arrangement.

Supervision of making of butter milk.

8. We have heard complaints that butter-milk in some prisons is made out of skimmed milk from which the cream has been removed, and therefore tasteless and poor in quality.

It is desirable that the entire process of the boiling of the milk and its conversion into butter-milk should be supervised by the Sub-Assistant Surgeon. The Superintendent and the Medical Officer should also independently satisfy themselves that the prisoners receive the full benefits of butter-milk by frequent surprise visits. Such an arrangement is definitely enjoined in British Indian jails.

Gingely oil and salt.

9. The quantity of gingely oil and salt may be slightly increased.

Curry powder.

10. The curry powder prescribed for Mysore jails is said to be superior to that used elsewhere. Some slight change in the ingredients may be advisable, particularly a reduction in the quantity of pepper and the addition of a little more coriander seed.

Meat.

11. In some British Indian prisons where a large number of convicts are non-vegetarians, the use of meat is found unnecessary. In Mysore jails, however, meat is issued once a week, and this practice may continue.

Quality of articles.

12. As regards the quality of the articles, there were some complaints, but these did not appear, on

enquiry, to be well founded. The rice and cereals were generally of good quality, as also were the rest of the articles stored for consumption.

Pounded rice.

13. The use of pounded rice has been recommended by some as being healthier than polished rice. No doubt it is so, but it does not seem possible at present to procure such rice from outside at reasonable prices or in the required quantities. To get pounding done with prison labour would be distinctly uneconomical, unless rice similar to hand-pounded rice could be made by the use of machinery.

Variation of dietary.

14. The rules as to dietary in Chapter XXII of the Mysore Jail Manual do not provide in specific terms for the issue to any prisoner of the kind of grain to which he is generally accustomed as food, whether it be rice, ragi, wheat or jola, or indeed for any modification of the prescribed dietary without the sanction of Government, except on the recommendation of the medical officer in the case of individual prisoners.

Discretion to convicting court.

15. The convicting Court, of its own motion or on a reference by the Jail Superintendent, should have power to determine the class of diet as well as the kind of grain—whether rice, ragi, jola, or wheat—which newly sentenced prisoners should receive in jail. A rule on the lines of Madras Rule 347 (3) will provide for this, and enable the prison authorities to meet the needs of prisoners whose staple food is other than rice or ragi.

Number and timings of meals.

16. The prescribed number and timings of the meals given to prisoners in Mysore jails are unsuitable and require to be altered.

At present there is one early morning meal— a heavy one—distributed by 7 o'clock, and an evening meal, also a full one, after the close of the day's work at 4-30 P.M.

Those who wish it are allowed to reserve a modicum of their morning meal to serve as a light midday cake at 12-10.

Present arrangements unsuitable.

17. This, on the face of it, is by no means an ideal arrangement. It departs widely from the prevalent habits of the generality of people in this part of the country, for whom the heavy meal comes in the middle of the day or shortly before, and a substantial, even if less heavy, meal after lighting hours and some time after night-fall. An early breakfast, if taken, is usually a very light one; so also is afternoon lunch for those who are accustomed to it.

It is obvious that the timings have little reference either to the ordinary practice of the free community or to the physiological needs of men in confinement, but mainly if not solely to the convenience of prison routine. From the latter point of view it is certainly an advantage to despatch the work of cooking, serving, and feeding a large number of prisoners before they are marched off to their work; but it is not so certain that it is good for the men to be put on hard work immediately after a heavy meal. The interval of nearly ten hours between the two meals proper is also too long.

Suggested changes.

18. The hunger for food is normally at its height after, and not before, the morning hours of work. The principal meal of the day should, therefore, be fixed for 12 noon or a little before. The interval of an hour (or two hours in the hot weather) now allowed in the middle of the day, before work is resumed, is just what the system would require for the digestion of a full meal.

A light meal, in the shape either of *kanji* (gruel) or cake or boiled rice, with chutney or lime pickle, should be served early in the morning, immediately after unlocking —an arrangement which, incidentally, will do away with the need for waking up the cooks so early as 1 or 2 A.M. to prepare a more elaborate breakfast.

The evening meal should be similar to, but less substantial in quantity than, the midday meal, with, if possible, somewhat different ingredients. This should be served on completion of the day's work, but ordinarily not earlier than 5-30 P.M., when there would still be light at most seasons of the year.

Three meals with proper intervals.

19. Under the arrangement we are suggesting, the regular number of meals would be three, as is also the rule in British Indian prisons, and they would be served at intervals properly spaced.

Cooking.

20. The cooking of the prisoners' food is almost as important for the maintenance of a good standard of health as the composition of the dietary.

As far as possible, the prisoners' food should be served out and reach them hot. To allow of this being done, the principal meal should be cooked in the morning, after there is daylight, and served at midday.

Protection from flies.

21. The rules require that all food shall be carefully protected from flies. But this is only imperfectly secured in practice. The arrangements in force in some of the South Indian prisons visited by us are much more effective,

and may be adopted with advantage. Kitchen doors and windows are invariably fitted with fine mesh gauze to keep out flies. The kitchen itself has two doors, with an intervening space five or six feet wide, to prevent their accidental ingress into the kitchen; such flies as do get in are promptly despatched by convicts on the watch for them.

Cooking vessels.

22. The substitution under recent orders of aluminium eating and drinking vessels for earthen ones is a decided change for the good. But it is not so clear that the replacement of iron pots by brass and copper vessels for purposes of cooking is an improvement in the case of so large an institution as a Central or District Jail. These utensils are costlier, and their wear and tear is greater; also, unless they are tinned properly and at regular intervals, there may be risks of metal poisoning. In the prisons in British India the pots used are mostly of iron, and are kept perfectly bright and clean.

Freedom from smoke.

23. The kitchen should, as far as possible, be kept free from smoke. Proper arrangements should be made for leading the smoke out of the oven by suction through tall chimneys.

Cleanliness.

24. The cooks should be required to keep their hands perfectly clean, washing them occasionally in permanganate of potassium solution.

Separate kitchens for vegetarians.

25. At present all food is prepared at the main kitchen by caste-men, vegetarian food being cooked separately from non-vegetarian food. Separate cooking places are, however, set aside for Brahmins, a concession which may be allowed to other vegetarians as a class.

Change of convict cooks.

26. It is advisable to change the convict cooks frequently, so as to minimize opportunities for smuggling, unequal distributions, and other malpractices.

Eating-places.

27. In each yard some place should be provided in which the prisoners can be fed when it is too wet or too sultry for them to eat their food in the open. A covered verandah along the sleeping barrack or workshop will usually suffice.

Every such place should have a water-tap and a sink for washing the hand and vessels.

Procuring of rations.

28. Out of the three possible methods of procuring prison rations, namely, by the auction system, or by tenders invited by public advertisement, or by direct purchase, the last mentioned is only permissible in those

rare cases in which the others cannot be resorted to, as also in respect of articles which will not keep.

Contract tender system.

29. The contract tender system is that which is adopted in Mysore jails; and it has, on the whole, worked satisfactorily. To ensure the due fulfilment of the terms agreed to, it will usually be desirable to require the contractor to deposit a sum of money equal to ten per cent of the total value of the contract by way of security.

Custody of articles.

30. The provisions supplied are at present left in the charge of the contractor, in a store room inside the jail premises, and are issued by him as required for use. This is not a desirable arrangement for several reasons, one of which is the possibility of smuggling and of improper communications with prisoners, and another the scope for the introduction of inferior articles. The contractor should have nothing to do with the articles once they have been scrutinized and approved and have passed inside the prison gates. The system of official custody and control of all articles of rations, which prevails in British India, though it entails some responsibility and supervision on the officials, and additional work in the way of getting the rations cleaned by convict labour, is on the whole to be preferred. As a matter of fact, the examination, weighment and storing of all grain and other rations purchased is one of the duties definitely laid on the Deputy Jailor by the Rules.

Stocking of supply.

31. Two months' supply should be stocked as a rule. Properly built, rat-proof godowns should be provided, in which grain and other supplies can be stored in bags.

Deduction for wastage.

32. It will, of course, be necessary to allow in the accounts a small percentage of deduction on account of loss and wastage during cleaning and issue.

Antiscorbutic vegetables.

33. Such antiscorbutic vegetables as are suitable for the purpose should be stored during the season of plentiful supply for issue in the following hot weather.

SECTION B.

Personal needs and comforts.

Distinctive clothing within prison.

34. The system of issuing distinctive clothing to prisoners is objected to by some persons on the ground that prison costume is abnormal and in marked contrast

with that worn by people in ordinary life, and further that it is a mark of degradation and disgrace. We do not think there is much force in the objection.

Prison is a place of regulated discipline and labour, to which civilian apparel with its varieties of material and make is ill adapted. Because the material is cheap and the cut is not fashionable, and because all the inmates are dressed in the same pattern, prison garb is not necessarily to be looked upon as a badge of disgrace.

Ordinary clothing outside.

35. At the same time, there is no need to parade the use of such costume outside its proper sphere. Accordingly prisoners should be permitted to wear their own ordinary clothing when attending a court either as witnesses or as accused persons, and when being transferred from one prison to another.

The distinctive marks on clothing are meant for identification, and should continue to be used.

Scale of clothing.

36. Every male Indian convict is supplied with two suits or sets of clothing a year. In cold weather all prisoners should be given a thick cotton underwear in addition to the *jubba* or coat. For prisoners confined in Malnad prisons, an additional blanket may be given during the cold months.

Trousers.

37. The trousers are really shorts made to reach just one inch below the knees. They do not always sufficiently protect them or even cover them when kneeling down. The length may therefore be increased in the case of all prisoners so as to reach to within four inches above the ankle, which is the length prescribed for Muhammadan convicts in British Indian jails.

Cumblies.

38. The cumblies now supplied are made of scraped wool, which, though less costly than clipped wool, does not last as long and is much more uncomfortable, besides being liable to harbour vermin. We recommend that cumblies may, in future, be made out of cut wool, a change which will prove economical in the long run.

Washing of clothes.

39. Prisoners are required to wash their clothing at least once a week. There is, of course, nothing to prevent the cleaner among them from doing so more frequently. "Chowlu" or fuller's earth is now supplied for the purpose, but this is not as effective as washing soda, which is issued in Madras prisons, and which may advantageously be substituted. Soap would be better still, if it could be manufactured economically in jails, as suggested by us in a previous chapter.

40. It is desirable, if there is a prison laundry, to have the clothes cleaned there at regular intervals. But in any case both clothing and bedding should occasionally be dry cleaned or passed through steam. For this purpose a large steam disinfector should be installed in the larger prisons. For the smaller ones there are simpler but sufficiently effective devices which may be introduced. All bedding should be placed in the sun to air every day. Disinfection of clothing and bedding.

41. Daily bathing should be encouraged in the interests of health and cleanliness. We would go further and say that, except in the case of the really weak or sick, it should be enforced as a general rule. A warm or tepid bath should be provided for those who are medically certified as unfit to stand a cold water bath, as also for prisoners in the Malnad during the winter season. Bathing.

To prisoners accustomed to take regular oil baths, an ounce of gingely oil per head may be issued once a fortnight, together with an ounce of soapnut powder.

Those who have been in the habit of using toilet soap may be allowed to procure the same at their own cost.

42. Each prisoner should be given a pair of towels once in nine months, as in British Indian jails. The so-called towels, eighteen inches square, which are now issued, are much too small for the purpose. They should be at least thirty-six inches long by twenty-four, if not longer. Towels.

43. The present system of storage of water in troughs for bathing purposes is unclean and wasteful. Water should be stored in metal tanks at a height, and taps provided for shower or spray baths, so that a dozen or more persons may be able to bathe at the same time. Where the jail is connected with a municipal water-supply, a pipe line running at a height of some eight feet, with a number of outlets for the flow of water, will serve the purpose. Storage of water for bathing.

Separate cisterns or buckets should be provided for water required for washing clothes.

44. Bathing platforms are now usually exposed to the sky and air, and prisoners in delicate health are apt to catch cold or get lung troubles. The platforms should be provided with roofing, and paved with stone slabs. Where possible, screen partitions should be provided to secure privacy; but they need not be higher than four feet or so. Bathing platforms.

Used water.

45. The used water from all parts of the prison should be collected and led away in open drains for utilization in the kitchen garden. As regards the fresh water supply available, it should be hardly necessary to observe, that this should be so conserved that the needs of the inmates are fully met before any of it is used up for the garden.

Care of mouth and teeth.

46. Proper care of the mouth should be insisted upon, and every prisoner required to clean his teeth daily. Charred paddy husk powdered and mixed with a little salt makes a cheap and excellent tooth powder, which is of late being freely issued. The practice should be regularized as an essential item of personal hygiene. Prisoners who can afford it may be allowed to procure their own tooth powders or pastes.

Existing type of latrines.

47. Our remarks in Chapter II on the sanitary arrangements required for new jails apply equally to existing ones.

There is a sufficient number of latrines in the prisons we have visited; but they are mostly of the dry earth type, which is inexpensive, but requires removal of excrement and cleansing of the floor several times a day.

These latrines should be replaced, wherever sufficient water is available, by flush latrines, as has already been done in the Mysore Jail.

Till this change is effected, the existing latrines should be floored with cement, provided with proper foot rests and supplied with zinc buckets. Privacy should be secured by means of partitions between the seats not less than four feet high.

Fly nuisance.

48. As regards the fly nuisance with the attendant risks from propagation of disease germs, an effective way of abating it seems to be that adopted in the Salem and other jails in Madras, where the outer enclosure of the latrine is covered over with fly-proof gauze, and the doorways similarly enmeshed and provided with a spring arrangement.

Water for ablution.

49. Water for ablution after resort to the latrine must be provided at or close to it.

Restriction on visits to latrine.

50. The restrictions aimed at visits to the latrines except at stated hours or without previous permission are rather drastic, and should not be too rigorously enforced.

Flush-out or cage latrine for night-use.

51. The present system of having in a corner of each cell or barrack an earthen pot for night use, with a heap of dry earth, is highly offensive, and should be done

away with. A flush-out in each barrack would be the best arrangement. If this is not feasible, there should be a cage latrine allowing of the contents being washed out and cleaned from outside.

52. The night-soil from all the latrines should be collected and used as manure for the prison garden. Night-soil.

53. There are a number of articles which, while not actually necessary for health, are aids to comfort for many persons, and to others more or less luxuries. Articles of luxury and comfort.

Some of them, like drugs and intoxicants, are distinctly injurious in their effects, particularly in the case of men under confinement, and so have to be excluded from the precincts of the jail.

Others are comparatively harmless, and are already being permitted to certain classes of prisoners, such as convict warders and overseers, condemned prisoners, civil prisoners, state prisoners and under-trial prisoners, for their own use. (The Mysore Rules are in these respects somewhat less liberal than the Rules elsewhere.) Among such articles come tobacco, snuff, betel-leaves and nuts, and similar petty indulgences. We do not see why such a concession should not be extended to the generality of well-conducted prisoners of all classes.

This will not only make prison life rather more tolerable to many, but also afford an excellent incentive to good conduct, inasmuch as it would constitute a privilege which could be withdrawn for misbehaviour. Further it will operate, by limiting the number of articles which find a place on the prohibited list, to reduce the scope of the troublesome regulations now directed against smuggling—a not unimportant consideration. It has been observed that "smuggling in tobacco will never be stamped out until every man is allowed to smoke." * The observation is true of other comforts also besides tobacco.

54. All purchases must be required to be made through the jail authorities; and in order to minimize cheating, overcharging or other malpractices on the part of underlings, it would be a convenient arrangement to keep in the prison stores such articles of luxury or comfort as are in common demand, and to issue them in exchange for vouchers to be debited to a prisoner's account, instead of for cash. Purchase of such articles.

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* Triston, "Men in Cages."

Lighting.

55. The subject of lighting is one of great importance, and bears directly on many of our most important recommendations for prison reform.

The present arrangements for lighting are far from adequate.

It should be possible in the Mysore State, where electric power has been so largely generated for consumption, to provide an electric light installation in every prison, large or small. Among other manifest advantages, this will make it possible to find suitable occupation for the minds of prisoners during the long hours between the completion of work and sleeping time. Lights should be provided till 9 P.M. in all the association barracks, and in all the cells intended for the special and intermediate classes of prisoners (who would generally be literates), and all through the night in the passages and in the verandahs along the rows of cells.

SECTION C.

HEALTH.

Segregation and disinfection.

56. Prisoners are on admission placed in quarantine for a period of ten days, and a general examination is made of their condition. If there is reason to suspect that a particular prisoner may be suffering from an infectious disease, a detailed examination is made and the affected patient segregated. Beyond this there is no general bacteriological examination of all prisoners on their admission. Such an examination is only called for where there is reason to suspect that a prisoner is suffering from tuberculosis, leprosy, syphilis, or other infectious or contagious disease which is likely to be communicated to other inmates. Cases of this nature, when recognized, must, of course, be immediately segregated to prevent infection from spreading. This is also necessary in the case of diarrhœa, dysentery, typhoid and cholera, which are the commoner diseases to be guarded against.

In addition to the periodical disinfection of the clothing and bedding of the regular inmates, all bedding and clothing should be sterilized properly both on admission and on discharge of prisoners.

During epidemics the rooms and furniture should also be frequently disinfected.

Treatment of sick prisoners.

57. It is not advisable to put prison patients in hospitals intended for the general population, even if it be in separate wards by themselves. It should indeed be quite unnecessary to do so if the principle be accepted (as in practice it is to a large extent) that sick prisoners should, as a rule, be treated in the prison itself.

Existing arrangement.

58. The Central Jail at Bangalore has an entire block set apart for hospital accommodation, while a convict barrack is being utilised for the purpose in the jail at Mysore. This is stated to be ample in ordinary conditions, but not quite adequate during emergencies such as outbreaks of influenza and diarrhœa.

Hospital for every Central Jail.

59. To enable proper arrangements to be made, every Central Jail should have its own hospital, fully equipped for dealing with all common ailments. Such a hospital should, among other things, have a laboratory for the diagnosis of diseases, an operation room, a dark room for eye examination, a compounding room, and, of course, a full equipment of instruments, appliances, and medicines.

Dispensaries for District Jails.

60. The District jails should have dispensaries equipped on a smaller scale, but adequately enough for their ordinary requirements.

Urgent cases.

61. Cases of emergency requiring immediate attention should also, as a rule, be attended to in the prison hospital or dispensary.

Illness among female prisoners.

62. Cases of illness in the female block should be treated by the prison doctor, where the services of a lady doctor cannot be regularly arranged for. The matron and her assistants should have a knowledge of nursing. If possible, the former should be a person with some medical qualifications and competent to attend to cases of ordinary ailments (*vide* Chapter III, Section C).

Provision for in-patients in Central and District Jails.

63. The provision for in-patients must depend on the magnitude of the prison. In large jails outside the State, like those at Salem and Coimbatore, where the average prison population exceeds a thousand, a separate ward with some thirty five beds is considered necessary, even though the actual number of in-patients under treatment is usually very much less. On this scale, and judging also from the average number of serious cases treated in the prisons of the State during a period of five years past, we should say that at least twenty beds should be made available in each of the new Central prisons, and about six or seven in each District jail.

In Sub-jails.

64. Similar arrangements, but on a much more limited scale, will be needed in the case of sub-jails. They should include an out-patients' block, an isolation ward, and a separate room for in-patients, with beds varying in number from two to five according to the magnitude of the sub-jail.

Health statistics of Mysore prisons.

65. The subjoined statement shows the average daily population of all the prisons in the State between the years 1934 and 1939, with the average number of sick prisoners among them. Having regard to the fact that all cases of sickness in prison are duly traced and properly attended to, whereas members of the free community do not always seek medical attention for their ailments, it must be said that the conditions of health as judged by prison statistics are by no means unsatisfactory.

Year.		*Average daily strength.*	*Daily average number of sick.*
1934 ...	Males ...	1049·64	11·46
	Females ...	31·91	·12
	Total ...	1081·55	11·58
1935 ...	Males ..	1278·62	11·91
	Females ...	33·24	·04
	Total ...	1311·86	11·95
1936 ...	Males ...	1261·77	12·40
	Females ...	49·25	0·15
	Total ...	1311·02	12·55
1937 ...	Males ...	1181·32	22 37
	Females ...	38·32	·87
	Total ...	1219·64	23·24
1938 ...	Males ...	1092·17	28·21
	Females ...	31·31	·94
	Total ...	1123·48	29·15
1939 ...	Males ...	1412·21	75·09
	Females ...	27·58	·14
	Total ...	1439·79	75·23

General health of prisoners.

66. It is generally acknowledged that, in the matter of physical conditions, the prisoner in jail is, on the whole, well looked after. Medical care, combined with good dietary and suitable work and exercise, results in almost every prisoner going out of prison in better health than when he entered it. It is found that, on an average, about 75 per cent of the prisoners with fairly long sentences gain weight during the period of their detention.

Prevalent diseases.

67. The most common cases of illness are dysentery, fever, cold, bruises and other injuries, and other minor ailments.

Bowel diseases such as dysentery and diarrhœa are common during the rains, and very special precautions have to be taken to prevent their spread. Many prisoners suffer from malaria previously contracted. It is advisable to issue prophylactic quinine to all during the months when the disease is prevalent.

Chronic disease is common in jail, as it is the cause of much crime. Physical defects are also often the cause of an individual taking to crime. The cure of these while in jail may be the means of enabling the individual after release to turn over a new leaf.

Venereal disease is fairly common amongst new admissions, and it is imperative that this should be diagnosed and treated at the earliest possible moment. The provision for treating and isolating cases of venereal diseases is at present inadequate. The only way to prevent infection would be to isolate absolutely all the venereal cases in a separate part of the prison.

Patients suffering from tuberculosis, leprosy, or other severe forms of infectious or contagious diseases, should be removed to special institutions where such exist, or else segregated in detached annexes to jails.

Isolation wards.

68. Two cells within and two cells outside the hospital barrack in the Bangalore Central Jail, and one cell in the Mysore Jail, are set apart for the isolation and treatment of infectious cases. This is sometimes found to be insufficient. There should be separate wards for these and for epidemic cases in each jail. The wards must be self-contained as regards water facilities, latrine arrangements, and the like.

Fortunately epidemic diseases, such as plague, cholera, typhoid fever, and smallpox, are seldom found inside prisons, because of the preventive measures taken

and of the protection afforded by means of inoculation and vaccination.

Hunger strikes.

69. Proper provision has to be made for dealing with hunger strikes on the part of prisoners, and regulating the conditions under which artificial feeding should be resorted to. We have suggested certain additions to the Rules on the subject, in the List appended to this Report. Experience shows that this misconceived form of indiscipline, first introduced by political prisoners, is apt to spread to other classes of prisoners unless strong disciplinary measures are taken.

Weighment of prisoners.

70. The rules as to the periodical weighing of the prisoners are definite, and are, we understand, being regularly carried out. It is desirable to provide each jail with a reliable weighing machine of a modern type.

Medical care.

71. As far as we have been able to ascertain, the medical care of sick prisoners is generally efficient.

The work is heavy and taxing, and having regard to the large number of patients to be personally attended to day by day, it is not surprising if some officers are inclined to be brusque and impatient. Such an attitude is apt to be misconstrued or exaggerated into indifference and neglect, as in the case of the allegation made to us that sick prisoners have sometimes been told to wait for proper treatment till after they were released.

It is well to impress on every medical officer that prisoners have only limited opportunities of applying to see the doctor, and that much unnecessary suffering is often caused because of the difficulty prisoners have in approaching the medical officer with their troubles.

Where a man is too ill or too nervous to make known his complaint properly, there is no reason why he should not be helped out in this by a friend or a fellow-prisoner better able to do so.

Attention at night.

72. It is at night that it is most difficult to ensure that sick patients receive sufficient attention.

The following recommendation of the Indian Jails Committee in this connection requires attention :—

" Whenever possible, prisoners who are so seriously ill as to require medical aid and nursing at night should be kept in a separate ward. A sub-assistant surgeon, where there are two or more, should sleep in turn in the jail. If there is only one sub-assistant surgeon, a telephone should be put up connecting the hospital with his

quarters, so that he may be summoned if any patient is so ill as to require his attention during the night."

Intimation to relatives of sick prisoner.

73. Where a prisoner is seriously ill, it may often be advisable for the prison authorities, on their own initiative or at the request of the prisoner, to send intimation of the fact to any known friend or near relative of his, and to allow the latter to have reasonable access to the patient.

Nursing.

74. According to the Indian Jails Committee, the weakest aspect of the medical administration of jails is the absence of any trained or instructed nursing. This still remains true to a large extent.

The work is done almost entirely by "well-conducted casual convicts with long unexpired sentences," selected by the Superintendent and placed at the disposal of the medical officer (Rule 539). But no provision has been made for giving them proper training according to a prescribed and approved syllabus, as is done in British Indian jails. Nor are the men generally given any inducement for diligent and faithful attention to the sick, in the shape of extra remission and gratuity. These defects have to be remedied.

Trained nurses.

75. At the same time, the quality of the nursing in the Central prisons should, if possible, be improved by the addition of a few qualified and well-trained male nurses. Two will ordinarily be sufficient; the salary may be on a progressive scale rising from Rs. 20 to Rs. 40 by annual increments of a rupee, supplemented with free quarters near the jail premises.

Examination of mental condition.

76. We have dealt, in Section D of Chapter III devoted to mental defectives, with the case of those weak-minded individuals, who are not certifiable as insane, but are nevertheless ill-adapted for the environment and discipline of a prison. We have there suggested that a special institution should be provided for the detention and treatment of such persons. We have also expressed the opinion that the time has come when systematic provision should be made for the mental examination of all persons charged with the commission of offences. The question of mentality is not always, or even usually, given the importance that it deserves in connection with the determination of the guilt of the alleged delinquent and the treatment to be accorded to him.

Problem of mental deficiency.

77. The problem of mental deficiency is at present practically untouched in India, whereas in America and

in England a great deal is being done in that field, partly in connection with the courts and partly as medical work in prison.

It is the rarest thing for any magistrate in India to remand an under-trial for report on his mental state, and no Act such as the English Mental Deficiency Act of 1913 exists in India. As regards treatment in prison, attention to the physical health of prisoners is only a small part of the prison doctor's work in England. The examination of their *mental* state takes up a much greater part of his time and is undoubtedly the most interesting part of his duties.*

Need for increased attention.

78. We think a beginning should be made without delay in the direction of increased attention to the mental condition of prisoners.

For this purpose a trained psychiatrist (not necessarily a full-time man) should be attached to the staff of the Central Jail, whose duty it will be to examine all cases among the inmates of mental abnormality, including ill-health without visible cause, low spirits, eccentricities of temper, and so on.

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* *Vide* F. A. Barker, "Imprisonment."

CHAPTER IX.

Release; Accelerated and Conditional.

SECTION A.

Accelerated Release.

Periodical review of sentences of imprisonment.

1. The necessity is now universally recognized for bringing under review every long sentence of imprisonment at some period in the course of its currency. This has to be done by an impartial authority which would have before it information, which no sentencing court can possess, as to the results of the period of imprisonment undergone by the prisoner, his reaction to treatment in prison, and his fitness for accelerated release. It is this aspect of the matter that must come up for consideration under any proper scheme for the periodical review of sentences.

Distinguished from ordinary remission.

2. Whereas ordinary remission of sentence is based on the idea of reward, and is intended directly to encourage good behaviour and the habit of industry and serviceableness, the system of review and consequential revision of sentence aims at tempering and readjusting the severity of the punishment to the necessities of each individual case after the lapse of a sufficient period.

Influence upon outlook of prisoner.

3. This is not in any way to minimize the influence which the periodical review of sentences must also exercise upon the outlook of every long-term prisoner. The prospect of accelerated release which it brings definitely makes for a feeling of hope and encouragement in place of despair and loss of interest. It has indeed proved to be a powerful lever in the hands of prison authorities for the promotion of good conduct and the prevention of misbehaviour.

Advisory Board.

4. In order that the task of reviewing judicial sentences in the light of subsequent circumstances may be systematically and impartially carried out, it is found necessary to appoint a small body comprising administrative, judicial, and experienced non-official elements to

advise Government upon the action to be taken in each case. A compact body with a defined constitution will be a guarantee, *prima facie*, that all aspects of the question of premature release will be carefully and impartially considered in every case. The final decision rests with Government, whose discretion to accept or reject the recommendation is unfettered. But since the Government will naturally be guided by the responsible advice tendered by the Standing Advisory Board in the light of all the available relevant circumstances, it may be assumed that its recommendations will be accepted in the generality of cases. Where a recommendation for release is not accepted by Government, the case should be required to be resubmitted for consideration after such period as the Government may direct.

Its composition.

5. The composition of the Standing Advisory Boards for the jails at Bangalore and Mysore, as defined in the Rules issued by the Government in September 1931, seems generally suitable.

Having regard to the quasi-judicial, even if advisory, functions vested in the Board, we are not in favour either of increasing its strength or of enlarging its functions so as to include persons connected mainly with the visitation of prisons. This is unaffected by the fact that the same persons may and do often find a place on both the bodies.

When sentences to be reviewed.

6. The Mysore Rules divide long-term prisoners into three classes, and lay down different ratios as to the periods of sentence to be served before a case can be brought under review. We do not see any particular use or advantage in this. The practice in force in British India in this matter is, we think, to be preferred. Under it the case of all prisoners who have served two-thirds of their sentence including remission will come up before the Advisory Board for consideration. This will conduce to a simplification of procedure as well as to an enlargement of scope.

It has been suggested to us that the minimum length of sentence to be served may be reduced from two-thirds to one half. We are unable to accept this suggestion, in view (among other things) of the fact that the condition of eligibility relates not to the total length of the sentence, but to what remains after an appreciable portion of it has been already reduced by way of remission.

Eligibility for accelerated release.

7. Accelerated release should be confined, as a rule, to first offenders and to those who, though they may have been convicted more than once, have not become confirmed in their evil courses. It should not be sanctioned in the case of persons convicted of systematic and organized crime or specially serious offences.

Information before Advisory Board.

8. The information to be placed before the Board in each case should include—

(*a*) the opinion of the Superintendent of the prison as to the conduct, character and work of the prisoner in jail, together with the opinion, if any, of the visiting authorities as to his fitness for release ;

(*b*) the best available medical opinion regarding the prisoner's physical and mental condition;

(*c*) the criminal history and antecedents of the prisoner prior to his trial and conviction ; and

(*d*) the opinion of the Magistrate of the District regarding the expediency of the prisoner's release in advance of the expiry of his sentence.

Determining considerations.

9. If there are good and valid grounds for apprehending that the premature release of a prisoner might be dangerous to the community, this will be a reason for withholding the concession. But such contingencies must be of rare occurrence. The determining consideration in the great majority of cases should be the prisoner's life and character in jail, and whether there has been sufficient improvement and reformation to warrant his being shown some clemency. Objections based on such grounds as that a man has a bad local reputation or that he was a rowdy or had bad associates in his village, and so on, ought not to be given undue importance. No man can be indefinitely detained on such grounds; ultimately he has to be set free; and it is in every way best to set him free under conditions which will appeal to his better nature and offer hopes and incentives to all others similarly placed. We think the Police must be required to give very convincing justification, based on newly arisen circumstances, in every instance in which they oppose the accelerated release of a prisoner. Their reports and representations will, in the natural course, be submitted through the Magistrate of the District to which the prisoner belongs.

SECTION B.

Conditional Release.

Value of system of release on probation.

10. We shall have occasion in a subsequent chapter to refer to the great value and success of the system of probation as applied to juveniles and adolescent offenders. Equally satisfactory results have attended its working in connection with that large proportion of adult offenders who, from their character and antecedents, are considered likely to make good if given the chance. The probation system has been justly characterised as one of the few means by which our penal methods can rise above the old dead level of crime, trial and punishment into something which is curative as well as penal. This can hardly be said of prison life with its many depressing features, including the concentrated companionship of other criminals.

Conviction or finding, but sentence not pronounced or executed.

11. The principle of conditional release is common to most penal systems, though applied in various ways. Usually there is a conviction, but either no sentence is pronounced or its execution is postponed conditionally on good conduct on the part of the offender during a prescribed period. Opinion is inclining in favour of the view that in such cases there should not be a formal record of conviction, but merely a finding that an offence has been committed. This is the practice generally followed in England except in serious cases tried on indictment. It is also the course increasingly adopted in later Indian legislation relating to youthful offenders.

Power of Government to suspend or remit sentence.

12. Apart from the royal prerogative to grant pardons, respites and remissions, the law vests in Government the power to suspend the execution of a sentence as well as to remit the whole or any portion of the punishment. Suspension or remission may be ordered without conditions or upon conditions accepted by the offender (*Vide* Section 401 of the Code of Criminal Procedure).

Release subject to notification to police.

13. A form of release on license, obtaining in some countries, requires the offender to notify his address and any changes of address to the police, to notify his arrival in or departure from any police district, and (if a man) to report himself once a month at the police station. This is a cumbrous procedure, and has been altogether condemned as both needlessly harassing and devoid of much practical value.

Importance of release under supervision.

14. Much more beneficial than a merely negative system of reporting to the police is a positive system under which the licensee is placed under the close supervision of some qualified person or after-care organization. The formality of the order for supervision, regular visits and reports, and the knowledge that the supervision is that of a duly supported officer of the Court—all these things combine to secure a much stronger hold over the offender than a simple recognizance.

Scope of Section 562, Criminal Procedure Code.

15. Power to order release on probation is now conferred in Mysore by the amended Section 562 of the Code of Criminal Procedure. This Section, as it originally stood, was limited to certain offences only—theft, theft in a building, dishonest misappropriation, cheating, or any offence under the Penal Code punishable with not more than two years' imprisonment. As amended by Act VI of 1927, the Court may now deal with this type of offences by "release after due admonition." At the same time, its power of release on "probation of good conduct" has been extended to cases of all offences punishable with imprisonment for not more than seven years committed by persons not under twenty-one years of age, and to offences not punishable with death or transportation for life when committed by a person under twenty-one years of age or by a woman. The exercise of the power in either case is restricted to first offenders only.

Extension of power to release after admonition.

16. The power of release after admonition, now limited to offences under the Indian Penal Code, may well be extended (as suggested by the Indian Jails Committee) to offences under other Acts as well. Many of these are petty offences, such as committing nuisances, begging, gambling, and the like, which have been created under the various Police Acts or the Acts regulating Local and Municipal administration.

Law defective.

17. But that which, above all, circumscribes the value of release on probation under Section 562 is the fact that it does not provide for keeping the offender under supervision after his enlargement. As soon as he has signed a bond, with or without sureties, he disappears from the ken of the Court, unless indeed he is apprehended for failure to observe any of the conditions of his recognizance. The demanding of security does not, in the circumstances, serve any very useful purpose.

Over and above the provisions already contained in Sections 562, 563 and 564 of the Code of Criminal Procedure,

it will be necessary to empower the courts in general terms to make supervision orders, to provide for appointing probation officers and prescribing their duties, also to authorize courts, when necessary, to vary conditions or discharge bonds, and so on. It will also be necessary for Government to take power to frame rules both generally, and in regard to such special matters as the appointment, resignation and removal of probation officers, the payment of their remuneration and expenses, and of subsidies to societies, and the conditions on which societies may be recognized.

Legislation for release of offenders on probation.

18. In order to facilitate the necessary legislation, we have appended to this Report a Bill for the release on probation of offenders, prepared on the lines of the latest enactments in force in British India. (*Vide* para 26 of Chapter XI).

Release on parole.

19. There is another form of conditional release which requires to be distinguished. Whereas no sentence of commitment to prison is actually passed on a person released on "probation," it is otherwise where a person is released on "parole": a sentence of imprisonment is imposed, but the offender is provisionally released before it is fully executed. Release on parole is thus an intermediate stage between imprisonment and final discharge, the object being to give to well-conducted prisoners greater liberty under less severe restraint, as a preparation for their return to free life.

Advantages of parole system.

20. The parole system has been worked with considerable success in England and other countries. It is found to be highly beneficial in its effects on the prisoner released, in whom it instils a sense of responsibility and self-respect. It serves for those still in confinement as an incentive to good behaviour and an aid to reformation. From the administrative side also, there is the positive advantage of a reduction in the population and in the cost of prisons. Even as a temporary measure, releases on parole will help to relieve overcrowding. On these various grounds it is to be hoped that the parole system will be increasingly utilized here.

Temporary release on parole.

21. It is desirable on humanitarian grounds as well as for its probable psychological influence, to extend the principle of parole so as to permit of the release of well-conducted prisoners, particularly those with long sentences to serve, on short temporary periods not exceeding fifteen days in a year. This would enable them to go to their homes

and attend to urgent work, or see relatives who may be seriously ill. Legislative action in this matter may follow the lines of the Act lately passed in the Central Provinces (IV of 1939). This enactment permits of the release, subject to conditions, temporarily for periods not exceeding ten days in a year (excluding the time required for journeys), of any non-habitual prisoner who has been sentenced to a term of imprisonment of not less than three years and has served a certain portion of his sentence.

Probationary release of good conduct prisoners.

22. The Punjab scheme for the "probationary release of good conduct prisoners" is really a form of release on parole. By an Act passed in 1926, the Government of that province is authorised to permit the release under supervision of a person confined in prison under a sentence of imprisonment, who appears from his antecedents and his conduct in prison to be likely, if released, to abstain from crime and lead a useful and industrious life. Short-term prisoners and those convicted of murder, dacoity and robbery are not eligible. Prisoners must have done a sufficient portion of their sentence in jail, and their conduct while in jail must have been good. The Deputy Commissioner of the District must first be asked if the prisoner is, in his opinion, likely to abstain from crime if released.

Conditions of release.

23. The parole system usually takes the form of a provisional release under supervision and subject to conditions imposed as to good conduct, non-association with persons of bad character, and the like. The individual so released may then earn his living in a state of virtual freedom, so long as his conduct remains satisfactory and he obeys the conditions imposed. Should he fail to comply, he may be remanded to jail to complete his original sentence.

A slight variant of this method obtains in Punjab and elsewhere, whereby adolescents and adults (including members of criminal tribes) are released on licence either to Government departments such as Agriculture, or to Government farms, to railways, to contractors, or to private individuals.

Essentials for success.

24. The essentials for the success of the parole system are the same as for the probation system. In both there should be some previous enquiry as to the suitability of the individual for the particular form of treatment proposed. While the person enlarged will be

free to follow his ordinary life, he should be required to follow the conditions imposed by the Court, mainly for his own protection. The provision of work to enable the individual to earn a living is of great importance, especially in the case of a person who has been kept back from free life for any length of time. And, not least, there is the need for some organized agency to exercise supervision over his work and conduct.

Police agency undesirable.

25. It is now very generally admitted that the agency of the police should not be employed for this purpose. What is needed is not surveillance but supervision—a very different matter.

Duty of supervision officer.

26. It will be the business of the supervision officer to find employment for released persons in his charge, to protect them from interference by the police or other persons, to extend friendly advice and support to them in the critical period which must elapse immediately after their release, and to see that the conditions imposed are faithfully observed. Any serious breach of these conditions should be reported by him to the Court.

Conditional release is economical.

27. We have already drawn attention to the fact that the system of conditional release, besides its moral effect on the person released, will also, by automatically reducing the prison population, result in material saving to the State. The only expense will be the salary of the paid officers and the out-of-pocket expenses of the paid and voluntary staff distributed over a large number of persons under supervision.

Need for co-ordination of social workers.

28. Having regard to the important part played by effective supervision in the machinery of the penal law, and the difficulty of obtaining suitable men qualified and able to guide and control a large and scattered field of potential and actual criminals, and bearing in mind also the many possibilities and ramifications of social service in relation to the victims of circumstance, it seems worthy of consideration whether the time has not come for co-ordinating the agencies engaged in these various interconnected forms of activity. It is believed that certain provincial Governments in India are already giving serious consideration to the establishment of a cadre of social workers including those concerned with probation and after-care. It is appropriate that both paid officials and voluntary helpers should find place in the same band of social workers; but the important thing is that it should be capable of being wielded as the efficient instrument of

a country-wide organization of social service, based on an influential non-official foundation, but functioning with the active sympathy and support of Government and under its general control and guidance. This is a point closely related to the subject matter of the next chapter.

CHAPTER X.

Aid and After-care.

Organized aid.

1. An organized system of aid to prisoners is a comparatively recent development. Nevertheless its manifest importance in the case of those discharged from prison is now generally recognized, and the movement has spread through the civilized world, and has been of value to many thousands of released convicts. But there is still a common impression that, if help is imperative, it is only after a man has been caught in the toils and has received and worked out his sentence. The fact, however, is otherwise.

Stage of trial.

2. In a monumental work on "English Prisons To-Day," the authors remark that "the poorer a prisoner is, the less chance he has of receiving justice". No expense is spared as a rule in the prosecution, but no provision whatever, or hardly any, is made for the defence of a poor prisoner. The helplessness of many prisoners, particularly in the courts of trial, is a fact that requires to be emphasized. In an enlightened society, no one accused of serious crime will be without the means to put forward and prove his defence properly. Adequate assistance at this stage may obviate many a man being convicted and sent to prison.

Defence of poor prisoners.

3. At present the Government appoints counsel to represent an undefended prisoner charged with murder. In other cases any legal assistance given is generally voluntary, and due to the generosity of individuals or legal societies or bodies interested in social welfare. Where such assistance is not forthcoming, we think that the Government should undertake the defence whenever demanded by accused persons who are not themselves in a position to do so.

Arrangements for appeal by convicted prisoner.

4. The case of the man who has been convicted and sentenced to imprisonment also requires some consideration. Jail Superintendents are now expected to "give prisoners every facility for preferring their appeals". This means little more than that, if a prisoner has a petition ready, it will be transmitted. It is not contemplated, and it is perhaps unreasonable to expect, that he should be helped by the prison authorities to prepare his case for

appeal. The only help specifically enjoined is that a literate prisoner who has no friends or agents is to be provided with writing materials and allowed to write his own petition, while one who cannot write is given the help of "a prisoner or jail officer" to "write the petition of appeal at his dictation", but "his case" must "as far as possible be recorded in his own words" (Rule 408).

Recent alteration.

5. This, obviously, does not amount to much in the case of prisoners who are ill-educated and indigent. But such as it is, it is the arrangement prescribed for most of the jails in British India, and it was also the arrangement in force in Mysore until quite recently when, by an Order dated the 3rd December 1940, the Government directed the deletion of the words "prisoner or" in the sentence quoted above in Rule 408.

Reason assigned.

6. The reason for the omission is thus stated in the Order:—

> "The High Court have brought to the notice of Government that a number of appeals which are being received in the High Court from prisoners in jail contain elaborate, far-fetched and unreasonable suggestions, and in many instances it is very unlikely that these suggestions are made by the prisoner himself and also unlikely that they are made by any prison official assisting the prisoner in the preparation of his appeal. They are of opinion that it is not proper that a prisoner should be assisted by a fellow prisoner in preparing his appeal."

Result of altered arrangement.

7. The result of the omission of the words in question is, however, not merely that a prisoner wishing to appeal cannot have the help of a fellow prisoner in preparing his petition, but that he is deprived of even the clerical assistance of a literate prisoner in taking down his points in his own words to dictation. He must rely for this entirely on the good offices of a jail officer. Most jail officers are busy persons with their own routine duties to perform, not to speak of the fact that many of them are ill-paid men and not above acting from selfish or corrupt motives. It can hardly be expected, in any case, that with the possibility before them of their being taken to task for allowing improper matter to get into petitions passing through their hands, jail officials will be particularly eager to assist with "suggestions to help a prisoner in regard to the form or substance of his petition," or even to take down the spontaneous ideas of the prisoner to which exception might conceivably be taken in higher quarters. To expect that a petition in the preparation of

which a jail officer is required to assist should be entirely free from "improper matter," would be to place too great a responsibility upon the common run of jail officers.

Suggested solution.

8. It cannot be denied that jail petitions do, as a rule, contain much irrelevant and even improper matter; but courts are always in a position to ignore or discount the same when coming to deal with the petitions on their merits. If a remedy is required, it may well take the shape of providing qualified legal assistance where it is wanted. But to restrict the facilities, small as they are, open to persons situated as are most convicts seems to go beyond the needs of the situation.

We would suggest, as likely to be an acceptable solution for the time being, that Rule 408 be amended by the substitution of the following for the third and subsequent sentences:—

"If the prisoner is not able to write, the Superintendent shall cause his appeal to be written for him by another prisoner or by a jail official."

"A prisoner or official deputed to write an appeal shall do so at the appellant's dictation, and shall neither make any suggestions to the prisoner as to what should be stated, nor add anything to what the prisoner himself desires to have stated in the appeal."

The above follows the wording of the Rules on the subject in the Bengal and Punjab Jail Manuals.

Aid during incarceration.

9. After conviction and during incarceration, discipline rests with the prison authorities; but there are ways open to Boards of Visitors, acting in conjunction with Prisoners' Aid Societies and their non-official members, of watching over the prisoner's welfare, relieving his anxieties about the fate of his unprotected family, and doing what is possible to help the latter in their need. Something is being done in the latter direction, but not yet to a sufficient extent. Organized action, not occasional charity, is what is wanted most.

Period following discharge.

10. Next comes the stage when the prisoner has worked out his sentence and is qualified for discharge. The period immediately following this is a critical period in the lives of most prisoners.

As an officer with much experience of prison administration has said:—

"However enlightened a prison system may be, no prisoner emerges quite the same as when he went in. If the period has been lengthy, it is often found that a man will lose the use of some of his mental faculties, and he has to learn how to adapt himself to fresh surroundings. A man who has had to spend years in prison and

suddenly finds himself free, becomes so vulnerable that the slightest temptation is enough to turn him from his excellent desires and from his determination to live as a reformed character. Most people view him with hostility and practically everybody with suspicion. It is often very difficult, if not impossible, for him to settle down to the life of an honest citizen." *

Importance of aid at that stage.

11. It is during the first few months after release that the ex-prisoner needs help most of all. A little assistance and guidance at this stage will make all the difference between the man leading an honest life for the future or lapsing back into crime.

Aim of organized aid.

12. Organized and effective aid is required, first of all, in the interests of the individual himself, often a wrecked man both morally and economically.

Its aim is to restore the fallen man to self-respect, to rehabilitate him as a normal citizen by removing the stigma of prison life, and to help him to stand on his own legs through employment in useful work of some kind for which he is fitted.

The ex-prisoner, it has been said, suffers so great a handicap as compared with the "honest unemployed" that the chances of his being helped on to an equal footing are infinitely remote. †

This is all the more reason why he should not be simply turned adrift outside the prison gate, but taken in hand and placed firmly on his feet.

Factor in reduction of habitual crime.

13. The importance of after-care is, if possible, enhanced by the fact that it is also, in the next place, one of the greatest factors in the prevention and reduction of crime, especially habitual crime. As has been truly remarked—

"A reduction in the number of habitual jails would mean a reduction of staff, less cost in maintenance and a saving thereby to the State. There would be also less need of police, and so a further saving would be effected." ‡

Test of efficacy of penal system.

14. Not only, therefore, is after-care an indispensable factor in the saving of the ex-prisoner; it is also a measure of sound practical wisdom aimed at the prevention of crime and the protection of society. From both points of view it may be said that what happens to a prisoner after discharge is at least as crucial a test of the efficacy of a penal system as how he is dealt with in prison.

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* P. K. Tarapore, "Prison Reform in India".

† A. F. Watson, "Meet the Prisoner".

‡ F. A. Barker, "Imprisonment".

Co-operation between official and voluntary effort.

15. Experience proves that cordial and harmonious co-operation between official and voluntary effort is not only the best but the only effective method for dealing with the problem of the discharged prisoner. And that co-operation is best secured by means of organizations consisting of both officials and non-officials, and functioning under the ægis and with the support of Government but not under its direct supervision.

Objects of organizations for prisoners' aid.

16. The principal objects of organizations formed to carry on the movement are :—

To assist discharged prisoners to find employment;

To aid prisoners on their discharge by affording them temporary lodging and maintenance and by such other means as may be considered desirable;

To render assistance to the wives and families of convicted prisoners, where it is found necessary;

To take a friendly interest in the subsequent welfare of discharged prisoners;

To co-operate with kindred organizations in promoting efforts towards the rehabilitation of discharged prisoners generally.

One central organization with local branches.

17. To carry out these various objects properly and to be able to deal with all cases requiring help, it has generally been found necessary to have in each region a number of local societies affiliated to one central organization. The latter thus forms a connecting bond for all the other societies, and helps to secure a uniform policy and a consistent procedure.

Central societies on these lines have been formed at the headquarters of most of the provinces in British India. There is usually a branch society in connection with every central and district jail, and there is a network of probation officers all over the province to look after individual cases and report to their respective branch societies. The Central society guides and co-ordinates the work of the branch societies, raises funds by general propaganda and individual influence, and provides the necessary cohesion and driving power without which work suffers and interest flags.

Example of Madras.

18. Among these various provincial organizations, that of Madras is generally considered to be a most efficient and successful one. Its work has had the support

and approval of the Government and of its highest officers. It has aroused the sympathy and interest of the general public; it has elicited zealous assistance, both financial and personal, from leaders of public opinion; and it has enlisted the active co-operation of large employers of labour, both Indian and European.

Position in the Mysore State.

19. It is much to be regretted that the movement has not developed as it should in the Mysore State. In fact it has scarcely yet struck root.

An association under the title of "the Discharged Prisoners' Aid Society in Mysore" was inaugurated in January 1927, under the auspices of the Civic and Social Progress Association, and registered in May following. A large and influential Central Committee was formed at Bangalore, and District Committees in the other districts. A paid agent was appointed in April 1929; the pay was afterwards reduced to an honorarium. The Government sanctioned an annual grant of Rs. 1,000 for two years from 1st July 1932, on condition that the Society submitted an annual report of its activities. The grant was not afterwards renewed. Reports more or less bald and unilluminating were submitted for some years, and then discontinued. A site in the Gandhinagar Extension was obtained free of cost in 1936; and a building was erected thereon at a cost of Rs. 8,000 (towards which the Government contributed Rs. 2,000). As it happens, the new building is not made use of for the humanitarian purpose for which it was built; a portion of it is vacant, and another portion has been rented out.

Little work done.

20. During the time that the Society was at work, a certain number of prisoners were helped with small money gifts; others were given "certificates to find work," and employment was actually found for a few (about half-a-dozen). Beyond this nothing much seems to have been done. The Society is now to all intents and purposes defunct; and the District Committees are also non-existent.

Reasons for non-success.

21. The reasons for this state of affairs are not far to seek. The constitution of the Society was defective, and its management rested on a narrow and unstable basis. An already over-worked officer, the Central Jail Superintendent, was burdened with the manifold duties appertaining to the office of Secretary, duties which consequently were neglected. There was not scope enough for the participation of public-spirited

citizens with ideas and enthusiasm. Little attempt was made to secure the active co-operation of enlightened employers of labour and representatives of industrial concerns, or to enlist the support of private philanthropy or individual generosity in the cause. The general lack of interest on the part of the public must be set down, at least in part, to the absence of well-directed publicity and effective appeals to popular sympathy and sentiment. To put it shortly, some of the most indispensable elements of achievement were non-existent; and it is no wonder that the movement has failed to make any headway.

Necessity for fresh start.

22. It is necessary now to make a fresh start, avoiding past errors and profiting by our own and others' experience.

Royal patronage.

23. It would add very greatly to the vitality and strength of the movement if the start could be made under the highest auspices. The Central Discharged Prisoners' Aid Society in London has His Majesty the King as its patron. The provincial Governors in British India are patrons of their respective Central organizations, and by their active sympathy and support have contributed greatly to the success of the regional movements. The gracious patronage and countenance of His Highness the Maharaja will undoubtedly enhance very materially the prestige, influence, and power for good of the corresponding organization in the Mysore State.

General control and management.

24. In the interests of the movement, especially in its earlier stages, a certain amount of general control over policy and methods, without any active interference in the day-to-day administration, should be retained by the Government. This will be ensured by having the Member of Council in charge of the Prisons portfolio as the honorary President of the Committee of the Central Society. The presence on it of other high officials as well as of select non-officials will be a further guarantee of efficient administration and of a proper expenditure of funds.

Sub-committee.

The actual management may be entrusted to a small Sub-Committee consisting of both officials and non-officials.

The success of the Society will depend very largely on the character of its personnel, and particularly the Secretary. There are advantages in having two Secretaries, one of whom at least should be a young non-official with some vigour and energy and possessed of real interest and enthusiasm for his task, and without too many other

irons in the fire which may prevent his devoting proper attention to the Society's business.

Inclusion in management of employers and industrialists.

25. A serious obstacle to the proper functioning of Aid Societies in all countries is the natural prejudice on the part of many people against the employment of persons who have been in prison. It is, therefore, of particular importance to enlist the co-operation of employers of labour and the representatives of important industrial concerns by including them in the management. It is obvious that the best aid that can be given to an ex-convict is to find suitable employment for him, and this in the generality of cases must be in some industrial concern.

And of representatives of local bodies and communal organizations.

District Boards and City Municipal Councils may be invited to send to the Central Association one elected member each, who may also represent the same body in the local or branch society of the area concerned.

The help of communal organizations interested in social work should be enlisted at all the local centres.

Branch societies n districts.

26. At every district head-quarter town there must be a branch society, with the Deputy Commissioner as its President. All branch societies should be affiliated to the central organization.

Non-official visitors.

27. All non-official visitors should be invited to join the branch society connected with the prison for which they have been appointed. In the selection of persons for the post of non-official visitor, weight should be given to the fitness of the candidate to serve on the Committee of the Aid Society and to his ability to give assistance in the task of finding work for discharged prisoners.

Funds.

28. The funds required must be provided by voluntary subscriptions supplemented by an adequate Government grant. The twin principle that "it is the duty of Government to make a charitable donation in aid of discharged prisoners," and that "the sum should be regulated by the amount of private subscriptions" subject to "a maximum calculated on the total number of discharges," is fully recognized in England, where it is understood that seventy per cent of the total funds expended by the Central Association is contributed by the State. A similar principle is even more necessary in this country, and will encourage and stimulate the efforts that should be made to increase private contributions and collections from the public.

Agents.

29. It will be necessary for the Society to have under its direction a sufficient number of agents who will watch the after-career of the ex-prisoners. A few of these must be salaried full-time men, but others may be voluntary workers, but paid an allowance sufficient to meet their travelling expenses.

Having regard to the paucity of men able and willing to devote their time and energy to the aid and after-care of discharged prisoners, it will be desirable to offer suitable inducements, candidates being first carefully selected and afterwards properly trained for the work.

Duties of agents.

30. Among the duties of the Society's agents will be:—

(*a*) to interview prisoners in jail from time to time, and ascertain their circumstances and needs, and all other facts which the committees are likely to require;

(*b*) to meet such prisoners as are about to be released and accompany them from the jail to the railway station when needful, and to provide board and lodging for them on discharge for a limited period until work is found;

(*c*) to visit local employers of labour, and endeavour to secure their co-operation in finding employment;

(*d*) to visit constantly all persons under the care of the society so long as they are unemployed and after employment is found;

(*e*) to attend and advise at all meetings of the committees; and

(*f*) to undertake such secretarial work as is necessary.

Prison facilities to agents.

31. There should be hearty co-operation between the agents of the societies and the prison authorities. The agents must be given free entry into prison, and should be allowed access to all prisoners who are within a short period of release, say three months, in order to find out whether they are likely to need and ready to accept assistance, and to ascertain what trade or occupation they had followed before conviction and what their plans for the future are.

Disposal of prisoner's gratuity and wages.

32. It is undesirable, when a prisoner is released, to put into his hands the whole of the gratuity standing to his credit, which he might in many cases be inclined to spend wastefully or foolishly. Where there is a well established Prisoners' Aid Society with efficient and trustworthy agents, it is best to make over the amount to the Society, to be disbursed as seems best in the interests of the prisoner. If an earning scheme is in force, the amount of wages at the prisoner's credit may also be disbursed in like manner,

The amount of gratuity (and of wages if any) cannot at the most be much, and is not likely to go far in keeping a man between the date of his release and the day when a job is secured for him, if the interval is a long one.

Temporary board, lodging and work.

33. Usually the Central Association has to provide board and lodging for at least a fortnight—very often for a great deal longer—as well as find (usually through gifts from generous donors) clothing to supplement the needy prisoner's wardrobe, and any other immediate necessities.

In a large centre like Bangalore or Mysore, some sort of Home run by the Society will be very helpful. Here prisoners can be housed while looking out for work, or while looking for a lodging when they have found work. Facilities to earn a little money while waiting for suitable work might be provided in the Home. Breaking up firewood, grain grinding, spinning and small cottage industries like lacquer work are suitable occupations.

Monetary assistance.

34. In addition to maintaining an ex-prisoner while looking for work, it may occasionally be necessary to make a small grant to provide him with tools when work has been found. In exceptionally deserving cases it may even be worth while to advance a limited amount of capital to set up the man in business, the money being laid out under the Society's supervision.

Employment.

35. Since aid on discharge is primarily by way of securing employment, this will have to be sought, for the most part, in Government departments like the Press, in large factories, and in private industrial concerns.

Settlement on land.

36. At the same time it seems possible, in an agricultural country like Mysore, to establish a few colonies in suitable tracts where ex-prisoners, such as habituals, for whom other employment cannot be found, may be settled on land, first as labourers and eventually as owners of small plots reclaimed by them. The number to be thus provided for will not be large; for a good proportion of the prisoners discharged every year from the prisons of the State must have themselves been agriculturists either owning or cultivating the soil, who will ordinarily go back to their villages and to their work. It is in regard to the remainder, where they cannot be fitted with suitable jobs, that the possibility has to be considered of settling them in tracts where land is available to be reclaimed and brought under cultivation.

Police action against released offenders.

37. It will not be out of place if we say here that there is reason to think that the Police do not always give a released offender, especially if he be a habitual, sufficient time to find an honest means of living. They are too prone to take action against him under the preventive sections of the Criminal Procedure Code. Such hasty and ill-judged action should be discouraged.

Assistance to prisoners' families.

38. In England the work of Aid Societies has been extended to the assistance of the wives and families of men undergoing imprisonment. The steps taken will, it is said, insure that no deserving case will be overlooked, and that the suffering that has been endured by hundreds of innocent women and children will become a thing of the past.

A similar policy has been followed generally by Societies in British India, and will, we feel certain, be adopted in the Mysore State.

After-care of discharged female prisoners.

39. The after-care of discharged female prisoners is a problem attended with special difficulties. In a certain proportion of cases they may have homes to go to or friends who will receive them. But there must be a comparatively large number where a woman cannot be reconciled with her family and has no home of her own. It is not easy for females with the stigma of prison life on them to lead a respectable life in the surroundings which have known them.

In the vast majority of cases the first need on discharge for a female offender is the same as that of the male offender—work. "If a suitable job cannot at once be found, the obvious alternative—at least for the younger women—is the 'street'." *

If this is to be avoided, it will be necessary for the Society to find some respectable hostel, where she may live till a job is secured or other arrangements can be made.

If there is a Women's Home which will receive such women and keep and train them long enough for them to be able to maintain themselves, it will be a most desirable step for the Society to give the institution its active support and encouragement.

40. We shall refer in the course of the following chapter to the highly important subject of the after-care of children and adolescents released from special institutions.

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* A. F. Watson, "Meet the Prisoner".

CHAPTER XI.

Youthful Delinquency.

SECTION A.

Causes and Remedies.

Factors in youthful delinquency.

1. In dealing with the problem of youthful delinquency, we have to consider not only those who have committed offences, but the many more who are likely to drift into crime unless previously taken in hand. Crime in the case of the very young has comparatively little to do with any special depravity of the offender, and very much to do with parental neglect, bad example and evil surroundings.

Potential criminals.

2. Many potential criminals are the offspring of criminal parents, and are being trained in crime from early years, or corrupted by the evil example and teaching of older men. Others there are who have not yet lapsed into crime, but are living in vicious or corrupting circumstances, and without proper care and guidance during the impressionable years of childhood. Still others suffer from physical or mental defects which render them easily susceptible to criminal suggestions. An even larger number are waifs and strays, without homes and without parents, who drift about the streets or frequent the crowded bazaars or the outskirts of railway stations, and eke out a scanty subsistence by begging or petty pilferage. Too many of them are well on the road to make a living out of crime, and will in time swell the ranks of professional criminals. Not less serious than the question of the young vagrant is that of the child prostitute. There are female children in every town and city left motherless, or deserted by their parents or guardians, and placed by circumstances in an immoral environment, who, unless rescued in time, are very likely to be brought up to habits of prostitution.

Prevention and reformation.

3. In the case of the young offender no less than in that of the old, to punish the person after he is caught is not enough. It is even more important to see that the

commission of crime is prevented; and the most effective way of doing this is to ensure, while there is still time, that criminal tendencies do not get rooted. It is easier to keep young persons out of trouble than to have to cope with hardened criminals at a later stage, and it is also far less costly in the end. Money spent on measures of prevention and reformation will be more than repaid by the resulting saving in the trouble and expense of punitive action, not to speak of the comparative futility of all such action.

State's responsibility for upbringing of youth.

4. Every State is ultimately responsible for the proper upbringing of its youth; and the protection and timely rescue of those who stand on the brink of crime is an essential part of such responsibility. This cannot be fully discharged without taking into account and making due provision for such essential requirements as the custody and care of homeless and unprotected children; compulsory primary education for all children above a certain age; wholesome recreation for leisure hours, especially in towns and cities; facilities for training for useful careers; expert attention in cases of mental deficiency or abnormal development; and corrective and reformative treatment in institutions or outside of them for cases that are near to, or have passed, the border line of criminality.

Reform of social and economic conditions.

5. It will be seen that the roots of the problem strike deep into social and economic conditions, and cannot be successfully attacked without far-reaching social and economic reform. Our task on this Committee touches but the fringe of the problem, and is concerned mainly with the possibilities and methods of constructive treatment.

Statistics of youthful crime.

6. The statistics maintained by the Mysore Prisons Department lump together all prisoners between the ages of sixteen and forty. They do not show separately the number of juveniles below fourteen and of those between fourteen and sixteen, nor the number of adolescents between sixteen and eighteen and between eighteen and twenty-one. All that we can gather is that, on an average (based on the last ten years' figures), about 85 persons below the age of fifteen are being detained year after year in the prisons of the State, either as convicts or as under-trials. But in the speech of the First Member of Council moving the Mysore Juveniles Bill in the Legislative Council in January 1939, it was stated that the number of convicts under eighteen years of age is about 500 every year, and that it

is showing a tendency to increase from year to year. The total number of persons of and below twenty-one years convicted or detained in prison must of course be larger still.

Imprisonment of young persons.

7. The imprisonment of young persons is now generally acknowledgebed to wholly contrary to public policy. It is scarcely necessary to emphasize the harm done to a youthful offender by a sentence which serves no purpose but to familiarize him with the sights and conditions of prison life, to blunt the fear of prison which is one of the most powerful deterrents from crime, and to brand him with the stigma of imprisonment, without the slightest prospect of any beneficial influence. Experience proves that proper training under suitable conditions can, in the great majority of cases, successfully counteract criminal tendencies in those below the age of sixteen. No one under this age should, in fact, under an enlightened penal system, ever be sent to prison.

Case of adolescents.

8. The task of reformation will be more difficult in the case of those who have reached the restless and unstable but still plastic stage of adolescence. Investigations by expert authorities show that the great majority of habitual criminals have received their first convictions between the ages of sixteen and twenty-one. That is why it is vitally important to take preventive steps, while there is still the opportunity to do so and the possibility of their being effective. The most determined effort must be made to lay hold of these incipient criminals, and to keep them by strong restraint and rational treatment from recruiting the habitual class. In their case also, therefore, imprisonment should be abandoned as far as practicable, and only used when other methods of correction have been applied but have failed.

The majority of adolescent first offenders should, under a properly devised system, be let go on probation. If this fails, or when the crime is too serious for such treatment, the offender should be in a special institution, where the conditions are altogether different from those in a prison. There may, possibly, be a very small number who are not amenable to such treatment; these will have to be confined in a distinct block of the ordinary Casual prison.

SECTION B.

Measures of Legislation.

Special legislation needed.

9. For the systematic carrying out of the necessary measures of prevention and reformation, special legislation is found to be necessary. Such legislation falls under two main classes. The first, embodied in the Children Acts, is aimed principally at the rescue and protection of boys and girls, with a view to prevent them from becoming potential criminals; it also provides for the treatment of such juveniles as have become offenders, so as to save them from growing up into adult criminals. The second, represented by the Borstal Acts, deals with offenders between the ages of sixteen and twenty-one, who are likely to make good if properly trained in a special institution, instead of being committed to prison. Besides these, there are Acts for the release of offenders, including those of adult age, on a system of probation, as an alternative to mere unconstructive imprisonment.

Legislation in England.

10. The English Children Act of 1908 is known as the "Children's Charter". It revolutionized the penal law by abolishing imprisonment altogether for persons under fourteen, and by prohibiting its employment (except under very exceptional circumstances) in the case of any person under the age of sixteen. It classified young offenders as "children" if under fourteen, and as "young persons" between fourteen and sixteen; and it prescribed various methods for dealing with them. In lieu of prisons, the Act created "places of detention," to which offenders under sixteen could be sent on remand or for detention for a period not exceeding one month. Special tribunals called juvenile courts were created for dealing with charges against children and young persons.

The Prevention of Crime Act, 1908, authorised the establishment of special institutions, (called Borstal Schools, after the location of a previous experiment), for the training of offenders between sixteen and twenty-one who, by reason of criminal habits or tendencies or association with persons of bad character, appeared to be in need of such discipline.

Legislation in British India.

11. British Indian provinces have followed in the wake of English legislation, and have passed their own Children Acts and Borstal Acts, based generally on the same age classifications. Recently, however, the more or

less superfluous and in practice unimportant distinction between "children" and "young persons" has been dispensed with in Bombay, the former expression being defined so as to include all persons under the age of sixteen years.

The two sets of enactments referred to above, together with those relating to the Probation of Offenders, form the foundation on which all measures for the prevention and treatment of crime by the young are based.

Position in Mysore.

12. In the Mysore State the problem had pressed itself upon public attention since several years. Later, in 1934, the Government expressed themselves as being very earnest over the matter, their only difficulty till then being that of finding the necessary funds, which, however, they expected to be able to provide as early as possible. In the meantime, they appointed a Committee "to examine the desirability and feasibility of starting a Borstal School for juvenile offenders," and to frame a suitable scheme of work and training.

Committee of 1937 and its report.

13. That Committee, in a report presented in 1937, stated that the question of dealing with juvenile delinquency had become a serious problem, the solution of which "could not be delayed longer," that the number of juvenile offenders was showing a tendency to increase from year to year, that nearly one-third of the crimes in the Bangalore City during the preceding year was suspected to have been due to the work of juveniles, and that the establishment of a Borstal School for at least 300 boys was an urgent necessity. The scheme submitted by the Committee provided for the construction of an institution in Bangalore (which City in its opinion was "from every point of view better suited than any other place in the State" for the purpose) at an initial cost of two lakhs of rupees (besides Rs. 30,000 for quarters); and it estimated the annual recurring cost on account of establishment and maintenance at Rs. 40,000. In this, however, no account seems to have been taken of the appreciable saving in the expenditure of the Central and other jails that would result from the removal therefrom of their juvenile population.

Legislation to deal with juvenile problem.

14. The Committee also submitted the draft of a Regulation, which sought to deal with the juvenile problem as a whole in one comprehensive measure, instead of piecemeal as in other administrations. This draft was published for opinion, and it formed the basis of the Bill which was subsequently placed before the Legislative

Council in January 1939, and which, with minor amendments suggested in Select Committee, was passed by the Council in June of that year. The measure received the Royal assent on the 3rd July 1939, but has not yet been brought into operation.

The Mysore Juveniles Act, 1939, and its scope.

15. This, the Mysore Juveniles Act, XIV of 1939, incorporates many of the more important provisions of the Children Acts and Borstal Schools Acts in force in Madras and Bombay. Supervision and probation, the appointment and duties of probation officers, and other connected points covered by the Probation of Offenders Acts of those provinces, are not dealt with in that Act and have not been provided for separately.

The Mysore Act deals not only with "youthful offenders", but also with juveniles who have not committed any offence, but who, owing to want of parental control, bad associations or other reasons, need protection and training. Instead of (as elsewhere) having separate institutions, for children and young persons below sixteen, and for actual delinquents between sixteen and twenty-one, it contemplates the detention of all persons under eighteen years of age in one single institution, to be called by a name reserved elsewhere for a special type of institution, the Borstal School.

This arrangement was, indeed, felt to be "not altogether satisfactory, in that it is calculated to bring together boys of different ages and different degrees of predisposition to crime". But it was sought to be explained, if not justified, by the fact that "we are just beginning to deal with juvenile delinquency, and that over-elaboration and consequent increase of cost have to be avoided".* The idea was stated to be, "for the present, to have the necessary legislation to be in a position to start the institution as soon as funds permit".

Necessity for differential treatment.

16. In the light of our own understanding of the position, we are constrained to think that the authors of the Mysore legislation were not well advised in setting aside the necessity for differential treatment based on differences of physical growth and mental development, and that the assumption that the appropriate treatment for persons of tender age, whether criminals themselves or the victims of others' crimes, was that which could be given in a Borstal School, was a serious error. The latter is a more or less semi-penal, corrective, institution

* *Vide* Speech of the Mover in the Legislative Council.

meant for adolescent offenders, that is, for persons who, at the time of conviction or of failure to give security, are not less than sixteen years or more than twenty-one, whereas what young persons under sixteen need most of all is protection, prevention and education under suitable conditions in school-like surroundings.

Distinction based on age, development, etc.

17. The mere fact that the number of persons in the Mysore State falling within each of the different categories may be small though making a fairly large aggregate, is, it seems to us, not a good reason for abrogating a necessary, almost a natural, distinction based on differences of age, physical development, maturity of understanding, and emotional stability.

Age categories.

18. Nor can we approve of the departure from accepted standards involved in putting the upper age limit for "young persons" and "youthful offenders" at eighteen instead of sixteen years. This, in effect, is merely a device to do away with the next older category of "adolescent offenders" between sixteen and twenty-one years, who are alone considered elsewhere to be the proper subjects for Borstal training.

19. A really useful simplification would have been to do away with the needless technical distinction between "children" and "young persons," and fix an upper age limit of sixteen years for juveniles generally. It may be noted, incidentally, that the expression "juvenile offender" is defined by the Whipping Act, V of 1903, as meaning an offender under sixteen years of age.

Powers of Courts.

20. By including juvenile courts among courts invested with powers under the consolidated Mysore Act, the functions proper to the special and the ordinary tribunals have been to a large extent mixed up. It is now open to a juvenile court in the Mysore State to pass on a youthful offender a sentence of detention in a Borstal School—a power which no juvenile court elsewhere is empowered to exercise. Even more open to objection is the power given to a court by Section 24 to send vagrant, destitute, and unprotected children, who are not offenders, to a Borstal institution instead of to a Certified school, as in British India.

There is, besides, a certain overlapping of provisions, as for instance between Sections 12 and 20 (d) and between Sections 17 and 20.

Inter-transfers.

21. The scope of the Mysore Act being what it is, it is doubtful whether it will be possible to give effect to the

provision contained in Section 42 of the Act for the transfer of inmates of "Borstal Schools" (so-called) within the State to Borstal Schools outside. If inter-transfers of this kind are to be effective, there must be substantial identity in the essential principles and policy of the juvenile legislation of the different regions concerned.

Necessity for revised measure.

22. In view of these and other considerations, it seems essential that the Act should be thoroughly revised and recast, or, better still, replaced by a new measure on suitable lines.

Urgency of action as to juveniles under sixteen.

23. We fully realize that there may be initial difficulties, financial and other, in the way of establishing and equipping two different sets of special institutions to deal with a comparatively limited class of persons. Instead of putting off indefinitely a most valuable and essential scheme of reform for want of funds, we think it is better in every way to take one decided forward step at once, and to follow it up with other steps as soon as resources permit. As between juveniles under sixteen and adolescents of and above that age, we have no hesitation in saying that the necessity for action is much more urgent and imperative in the former case than in the latter. We feel fortified in taking this view by the concurrence of experienced opinion elicited during our tours in the Madras and Bombay Presidencies.

Draft of new Children Act and Rules thereunder.

24. To facilitate the early introduction of a scheme for the purpose in question, we have drafted a Bill, based mainly on the Bombay Children Act, 1924, as amended from time to time, and have likewise prepared a set of rules to give effect to its provisions (*Vide* Appendices VI and VII). We give later on in this chapter an approximate estimate of initial expenditure on buildings, and of probable recurring charges on account of establishment and maintenance, based on data collected during our visits to institutions in the two provinces.

Draft of Borstal Schools Act.

25. We have thought it might be helpful, at the same time, to draw up a separate Bill to provide for the establishment of Borstal Schools for offenders of the higher age group in the State: (*Vide* Appendix VIII). This, if approved by Government, may be taken up for consideration simultaneously with the other Bill, even though its actual implementation may have to be postponed till some time after its promulgation.

Draft of Act for Probation of Offenders.

26. The two measures referred to will require to be supplemented by an Act for the Release on Probation of Offenders. We have accordingly prepared a third draft Bill (Appendix IX), on the basis of the Acts in force in British India.

Policy and scheme of legislation.

27. As the policy of the proposed measures of legislation, and the nature and working of the scheme intended to give effect thereto, must be comparatively new to people in this State, it may be useful to add some comments by way of explanation of the more noteworthy features.

Avoidable wastage of human life

28. Juveniles, deprived of proper care and guidance, are often manufactured into offenders by the bad conditions into which they are thrown. So also adolescents and adults, committed to short terms of imprisonment, and denied suitable help and encouragement on release, may develop a prison habit and become habitual offenders. It should be the aim of law, as far as possible, to prevent such avoidable waste of human life.

Purpose of Children Act.

29. The purpose of the Children Act is both preventive and remedial. It aims at the rescue of many types of boys and girls under sixteen years of age, who are the victims of bad conditions or of exploitation at the hands of older persons, and thereby it seeks to prevent them from falling into crime or vice. It also takes in hand juveniles who have become offenders, and endeavours by wise methods of treatment to reform and rehabilitate them in society.

Of Borstal Schools Act.

30. The Borstal Schools Act deals with offenders between the ages of sixteen and twenty-one years, who are likely with proper training to turn out well. Instead of subjecting them indiscriminately to the hardening process of imprisonment, it selects such of them as are likely to be benefited thereby to undergo a course of corrective and reformative treatment and training in a residential institution on public school lines.

Of Probation of Offenders Act.

31. The Probation of Offenders Act extends to adult offenders the system of probation allowed for juveniles under the Children Act. It thus provides a useful alternative to unconstructive imprisonment. Treatment on probation has been found in the West to be a most successful method of dealing with a certain type of offender; and given effective arrangements for supervision and guidance, there is no reason why it should not prove equally successful in this country.

SECTION C.

Disposal of Children's Cases.

Machinery of the Children Act.

32. We shall deal, first of all, with the case of children, or juveniles proper, that is, of boys and girls below the age of sixteen years.

The machinery required for the full operation of the Children Act consists of:—

(*a*) a Juvenile Court, which hears each case privately and informally, and prescribes the appropriate individual treatment;

(*b*) a Remand Home, where children can be safely housed after arrest pending settlement of their cases, and also placed under special observation;

(*c*) a system of Probation, both for obtaining detailed information regarding each case in its initial stage for submission to the Court, and for affording constructive help to children subsequently released on probation to their own homes;

(*d*) an Institution or Institutions to which children, who cannot be supervised in the open, or otherwise dealt with, can be committed for residential treatment;

(*e*) an After-Care organization, to help the child on release, as well as to run the Remand Home and employ a staff of Probation Officers.

Special Courts for children's cases.

33. It is now recognized that charges against children should be dealt with, not by the ordinary tribunals, with their excessive formality, their atmosphere of publicity and their awe-inspiring accompaniments, but by special courts held *in camera*, free from the presence of uniformed policemen, presided over by judges acquainted with juvenile psychology and modern methods of treatment, and governed by a procedure as simple and elastic as possible.

Composition of Juvenile Court.

34. In large towns the Juvenile Court should consist of a specially selected paid Magistrate at the head and two or three honorary Magistrates (one of whom may preferably be a lady) chosen to serve on the bench.

In other places, juvenile cases should be tried by the most experienced Magistrate having ordinary jurisdiction in the locality; but he should sit at a special hour and, if possible, in a special place for the purpose.

It is a cardinal rule that the Court should not be held in the same place, still less at the same time, as the regular adult Court. The best arrangement in places where there is a Remand Home is for the Court to sit actually in the Home. If this is not possible, then the use of some other building should be secured as, for instance, a school building or a municipal or local board office out of school or office hours.

Nature of Juvenile Court's work.

35. The work of the Juvenile Court does not, as in the case of a Court for adults, end with a finding as to the commission of an offence. Its concern is more with the offender than with the offence; and so it must go on to probe the situation disclosed by the evidence, with a view to ascertain the cause of the delinquency or other trouble and decide upon the best course of treatment. For this purpose it must acquaint itself with the child's history and background, his home surroundings, his career at school and at work, and also his medical and physical condition. Useful particulars may often be elicited by the Court itself by a careful and sympathetic talk with the child. But in all except the most trivial cases, it will be necessary to employ special agency to collect the required information from outside.

Detention of child pending enquiry.

36. During the time that this information is gathered, the child should be released on bail, unless the charge against him is very serious, or it is found advisable to remove him from bad surroundings or evil associations, or there is reason to apprehend that he will abscond. In that case he will have to be detained; but this should not be in a police lock-up or a prison. A special place should be provided for the purpose, with a minimum staff, consisting (it may be) of an elderly person with a sufficient understanding of his task, and his wife or other female as matron.

Remand Home.

37. A much better arrangement than a mere place of detention is that now being generally adopted in most places, whereby a Remand Home is utilized not only for purposes of custody, but also for purposes of observation, that is, the making of such medical or other investigations as may be desirable to assist the Court in deciding how best to deal with the offender. The need for expert observation and diagnosis before the passing of the final decision, while of importance in all cases of alleged crime, is particularly necessary in the

case of juvenile offences. A child guidance clinic is a valuable feature of up-to-date Remand Homes, and often facilitates treatment of uncontrollable children in their own homes and avoids their removal to a certified school.

A Remand Home should thus serve a double purpose, namely, safe accommodation for a child pending inquiry, and an observation centre for the personal study of the child. Whereas in the West a large proportion of children can be dealt with on bail, a Remand Home here, owing largely to the prevalence of destitution, is likely to be in very constant use.

Arrangements in Remand Home.

38. Upon the quality of the arrangements made in the Remand Home largely depends the proper functioning of the Juvenile Court. It is during remand that children are studied and friendly relationships established which facilitate good inquiry work. Magistrates of the Juvenile Court can do much to assist the authorities in carrying out the task of management, the difficulties of which are not lessened by the fact that children of both sexes and of different ages have to be cared for for temporary periods.

It should be hardly necessary to add that boys and girls after a certain age (usually twelve years), should be separately accommodated, either in different Homes or in detached blocks of the same Home.

Collection of information.

39. The collection of all available information required by the Court, regarding the child's home conditions and the circumstances which have resulted in its going wrong, is part of the duties of a Probation Officer. He should normally begin this part of his work as soon as the child is remanded. His enquiries ought to enable him to give the Court a concrete picture of the child's environment, and if possible an explanation of the causes of his getting into trouble. The Probation Officer should also be in a position to give the Court constructive advice based on the knowledge he has acquired of the case, regarding the best course of treatment to be decided upon.

Disposal of case.

40. When the Court is in possession of all the necessary facts, it will make a final order disposing of the case. The powers conferred on the Court by the Children Act are very wide, and provide for a variety of modes of treatment. The decision may take one or other of the following forms :—

(i) dismissal of the charge ;

(ii) discharge of the offender after due admonition;

(iii) his commitment to the care of a parent, guardian, or relative, the latter binding himself to be responsible for the behaviour of the lad;

(iv) his discharge or commitment as above, but subject to supervision of a person named by the Court;

(v) his commitment to a special institution;

(vi) caning, in cases where no other punishment is likely to be effective;

(vii) order on the offender or his parent or guardian to pay a fine (or damages or costs);

(viii) sentence of imprisonment where the offender is fourteen years or upwards;

(ix) any other legal mode of dealing with the case.

Commitment to care of relatives.

41. Where the Court does not dismiss the charge or discharge the offender with a warning, the most satisfactory course would generally be to entrust him to the custody of his parents or other near relatives, if there is any reasonable prospect of their exercising better care of him in the future than in the past, and if the home conditions are at all decent. Parental responsibility is thus not undermined, the State is saved institutional expense, and the child is helped in natural surroundings.

Discharge subject to supervision.

42. But generally children discharged by a Juvenile Court to the care of their parents or relatives are far more likely to turn out well when placed under the friendly supervision of a Probation Officer. A probation order, besides stating the security, if any, required and the period of the bond, may also specify that the child will live in a certain household under the Probation Officer's supervision, and impose any other desirable conditions, such as attendance at school, being placed at certain work, etc. By this means not only does a child receive constructive help, but his parents or guardians may be guided as to his proper future care.

Determining considerations.

43. Release under supervision constitutes treatment in the open, as opposed to commitment to an institution. Supervision should ordinarily mean definite and constructive guidance in the child's own parental home where this is suitable. But often home conditions are not suitable, and the prevalence of destitution makes it necessary to commit a comparatively large number of children to institutions. Whether a child can be released to parental care under supervision, or requires committal to an institution, is a matter which

usually requires careful thought and discrimination on the part of the Juvenile Court. The primary and determining consideration is not the gravity of the offence, but the best interests and future welfare of the child.

Release on probation.

44. Release subject to the supervision of a person named by the Court, or (as it is usually known) release on probation, is the most effective of all the methods available for dealing with a juvenile delinquent. In essence it is a suspension of the final decision of the Court for a fairly long period, the delinquent remaining during that time under the supervision of a person appointed by the Court, called a Probation Officer. In this period the Probation Officer watches over the offender's future conduct, gives him assistance in procuring work, advises him on occasions of difficulty, dissuades him from associating with unsuitable friends, and generally directs and influences his conduct for good. If the result is satisfactory, the Court accepts it, and takes no further action in the case.

Condition of successful working.

45. The successful working of the measure depends, in the first place, on adequate preliminary investigation prior to the passing of the order for release on probation, so that only young persons whose home conditions are not irretrievably bad, and who otherwise stand a reasonable chance of profiting by this type of treatment, are selected.

It also depends very greatly on the qualities of the persons selected to exercise supervision. They must be men of high character and large sympathies, with judgment, discretion, and enthusiasm for their work. Some paid appointments will be indispensable; but these may be confined, to begin with, to the cities of Bangalore and Mysore. Even here, as in other parts of the State to which the Act may be extended, the services of private individuals interested in social work should be utilized as far as possible, and their out-of-pocket expenses paid. Voluntary service in this kind of work can be of much help; and every attempt should be made to build up a network of voluntary probation service. The fact, however, remains that few volunteers are able to give the time, or have the necessary training and background, to do probation work successfully. Experience in other countries does not in fact favour reliance solely or mainly on volunteer workers, save to supplement the efforts of a paid professional staff.

46. A Probation Officer should not be given more cases than he can look after properly. A paid full-time Probation Officer, it is found, can manage on an average fifty to sixty cases in a city area. In the mofussil, where paid Probation Officers have other attached duties, thirty to forty cases may be considered a suitable maximum. For a voluntary probation worker the number must be even less. This is so also for officers handling girls' cases, who (it goes without saying) should always be women. Work of Probation Officer.

The Probation Officer must visit the child in his own home from time to time, and encourage visits to himself from the child. Where the child goes to school, a quarterly visit to the school may be necessary to verify his attendance.

In the case of bigger boys, the Probation Officer is expected to assist them in obtaining useful employment as soon as possible, and to check up their work attendance occasionally with the employer. In this way Probation Officers may to an increasing extent be used as after-care agents. Their training and experience specially fit them for this difficult but essential task.

Among other causes of failure in the working of the probation system, besides inefficient agents and indifferent work, are changes of residence by parents without informing the Probation Officer, and breakdown on the part of children sent to school.

47. It is the experience in most places that Children's Courts, after making a probation order, do not sufficiently interest themselves in the way in which it is carried out. It is of great importance that they should maintain a close interest in the cases which have passed before them, and thereby keep Probation Officers up to the mark in the work of supervision. Every Court should devote an hour or two every month to go through, with the Probation Officer, the cases which he has in charge. The Magistrates will often be able to help him and the children concerned with advice. Close interest of Court.

48. If for any reason it is found inadvisable or impracticable to restore the child to his own home or other suitable place subject to supervision, the Court may have to direct his commitment to a special institution. This will also be necessary where a child who has been placed on probation wilfully breaks the conditions of discharge, or refuses to follow the advice of the Probation Officer, or in any way seriously misconducts himself. Commitment to institution.

First and subsequent offences.

49. A child offender who has been placed under probation for one offence should not be placed again on probation upon commission of a second offence, but should usually be sent to a special institution. On the other hand, it is not desirable to send a boy to a special institution merely because of a casual first offence.

Case of girls.

Also, girls are less fitted for institutional life than boys; and so release on supervision is to be preferred in their case wherever possible. But apart from this, if there were a properly equipped home for older girls, a great deal could be done there to rescue them from moral danger as well as to deal with intractable cases.

Caning for exceptional offences.

50. Passing on to the remaining modes of disposal of cases, we must state emphatically that a sentence of whipping should never be resorted to in the case of juvenile offenders. Even those, like the Indian Jails Committee, who would retain its use, are fain to admit that it is "effective in only a small percentage of cases," and that often the boy who is whipped relapses into crime. In America no juvenile court sanctions the infliction of whipping, and it has been recently proposed to be abolished in England. Even as regards birching or caning, English experience shows that this method of punishment neither deters from future delinquency nor makes the young offender a better member of society. However, in order to meet those exceptional cases in which no other punishment might be effective, we have no objection to "caning" (administered in the way of school discipline) being retained in lieu of whipping, as has been done in the Bombay Children Act. A provision of the kind contained in some Children Acts, permitting of a sentence of whipping or caning being added *in default of payment of fine*, seems rather extraordinary, and we have omitted it in our draft Bill.

Fines.

51. To fine the offender may be a convenient way of dealing with a minor offence, and is probably more effective than simply discharging him with a warning. But there is always the possibility that the offender himself may be in need of definite help and so cannot possibly pay the fine. It is otherwise where he is a wage earner, in which case he may even be required to make some restitution for injury done by him.

Compensation.

52. There is something to be said for ordering the parent or guardian to pay a fine, and in a suitable case to pay costs or damages by way of compensation. This may

serve to emphasize parental responsibility for the behaviour of children.

Imprisonment.

53. A sentence of imprisonment on offenders of or over fourteen years is one of the *permissible* modes of disposal; but it ought to be passed only in the last resort, and in respect solely of lads of so unruly or depraved a character that they can be dealt with in no other way. In itself, as has been already emphasised, the imprisonment of young persons is a measure clearly opposed to public policy.

SECTION D.

Special Institution for Children.

Certified School or Children's Home.

54. We will now consider the work of the special institution which the passing of the Children Act (as proposed by us) will enable Government to establish for the reception of children and youthful offenders. Such an institution (following the definition contained in the Act) is that which is commonly known as a "Certified School"; but a "Children's Home" is in some ways a better designation, as it carries fewer implications of an undesirable kind.

Provision for separation.

55. As far as possible, provision should be made in the special institution for keeping and treating separately actual offenders, vagrants who are only potential criminals, and uncontrollable children.

Small boys and small girls may live in the same boarding home or cottage as the bigger girls, who will thus have the opportunity to help in looking after the smaller children. But boys who have reached the age of adolescence (sixteen years) should be removed to a special boys' home, while girls who have any sexual abnormality (such as past prostitution) should likewise be kept in a special home for older girls.

Question of age.

56. Occasionally, difficulties may arise regarding the age of boys and girls committed to a Certified School. One of our draft rules under the Children Act makes medical opinion as to age compulsory before the passing of the order. By having every child medically examined at the time of hearing, the summary discharge of wrongly over-aged children will be avoided, and the benefit of supervision made available to them.

Specialization in institutions.

57. From the point of view of individual treatment, it is an advantage not to make an institution too large. Both for this reason and in order to allow of a proper distribution and alignment of work, it has been found desirable in the Bombay Presidency to have separate institutions, some in cities, and others in country surroundings. The former will be in a position to arrange for specialized industrial training, while the training in the latter will have an agricultural bias, particularly adapted for the rehabilitation of boys coming from rural areas. Thus the David Sassoon Industrial School is meant to serve as a centre of specialized advanced vocational training. Weaving is to be developed there as the principal school industry, with tailoring, canework and blacksmith's work as other special features. These subjects, on the other hand, have been excluded from the curriculum of the newly opened Children's Home at Chembur, which in its turn will concentrate upon those children who show a genuine aptitude for agricultural training, and will give them advanced training in farming and related industries; but carpentry, handloom weaving, clay modelling, etc., will be taught as subsidiary industries. Classification according to types is also facilitated by such an arrangement: those boys who are found to require greater discipline are kept in the Industrial School, while others are removed to the Chembur Home. Both institutions are under the same management, that of the Children's Aid Society, an influential body with His Excellency the Governor at its head, and with various high officials, leading citizens and representatives of important public interests on its managing committee.

Single institution sufficient at present.

58. Such an arrangement, however logical and convenient in practice, cannot, we think, be adopted here, because, for one thing, we are only at the beginning of our experimentation, and for another, the number of children to be dealt with must be too small to warrant or need such a differentiation.

For the present there need be only one institution, providing for both sides of vocational training, industrial and agricultural. In order that equal justice may be done to both, it is necessary to locate the new institution in fairly open country, where a sufficient extent of land suitable for farming can be procured, but near enough to the outskirts of a city to facilitate supervision

and inspection as well as to provide eventual employment for trained lads in industrial occupations.

Selection of site.

59. The Committee has in view a site which seems in every way excellently adapted for the location of the proposed Children's Home, and also, later on, of a Borstal School when it is decided to establish one. Full particulars of the site are given in the annexed Note,* prepared for the use of the Committee by the Sub-Division Officer, Bangalore. It consists of four survey numbers, 70 acres 21 guntas in all in extent, attached to Peenya village, Bangalore North Taluk. It lies along the Bangalore-Tumkur Road to the north, between the 6th and 7th milestones from Bangalore City. It is wholly Government land, classed as gomal but devoid of pasture and not used for grazing. Besides its vicinity to Bangalore, there is the very material advantage that within a distance of three miles from it there are a number of industrial concerns (as many as twelve) which employ private labour, and which can no doubt afford opportunities for vocational training and employment for the boys of both the institutions. Other industries are also likely to be established in the same neighbourhood.

Lighting can be easily provided by means of a connection from the electric line running close by, while a tap connection from the main pipe-line from Hessarghatta, which (as it happens) runs between two of the survey numbers, will provide drinking water. Water for irrigation may be obtained from wells to be sunk in the low-lying parts of the site.

Environment that of school, not prison.

60. The new institution, obviously, has to be brought into being in an environment befitting its character and function. The location of a reformatory institution for the young inside or even in the near vicinity of a jail building is to be strongly deprecated. Unless this is avoided, the jail point of view and jail methods are likely insensibly to be introduced. On the contrary, the endeavour should be to approximate the institution to an ordinary school ; and such resemblances to a prison as high enclosing walls and iron-barred windows should be avoided. The buildings for residence should be planned more or less on the cottage system.

Requirements of institution.

61. We have been at some pains to form an approximate idea of the requirements of such an institution, the

* Not printed.

initial expenditure, the running cost, the staff to be entertained, and so on.

Our deductions are based to some extent on data pertaining to the Children's Home at Chembur, an institution which embodies much recent practical experience, and may well serve as a model for our own initial endeavours in the same direction, especially because, though mainly agricultural in bias, it has also sufficient facilities for craft training.

The Children's Home at Chembur.

62. The Chembur Home has been established some 18 miles away from Bombay City, on an extent of 130 acres leased by the Bombay Government to the Children's Aid Society. The eventual outlay of about three lakhs is expected to be more than fully covered by the Government donation of two lakhs, the contribution of one lakh from the Bombay Corporation, and private donations aggregating about three-quarters of a lakh. Work to an extent of about two lakhs has already been completed; and it was sufficiently advanced by September 1939 to allow of the construction of thirty huts or cottages and their occupation by a number of children drawn from different institutions. There are at present 400 inmates; but there will be accommodation sufficient eventually to absorb 2,000 boys.

63. The following items, relating to the outlay on buildings and equipment at Chembur, are reproduced as likely to give an idea of the provision to be made locally for our own purposes:

	Rs.
Thirty cottages, at an average cost of Rs. 2,500 ...	75,000
School building	25,000
Two workshops, each costing Rs. 7,500 ...	15,000
Two offices	3,000
Servants' quarters, two blocks	5,000
Six staff quarters	12,000
Electricity, water connections, closets, fencing, gates, &c.	15,000
Total, approximately, Rs. ...	1,50,000

This, of course, does not include levelling, drainage and other items dependent on the nature of the site.

Cost of proposed new Home at Bangalore.

64. As the maximum number of children to be accommodated in the proposed new Home at Bangalore is not likely at any time to exceed 300, it will be enough to provide 15 cottages, at an approximate cost of Rs. 40,000;

all of them need not moreover be built at the outset. The cost of a new school building may be put at Rs. 15,000, the same as the cost of both the industrial workshops. Offices and quarters will require Rs. 20,000; and initial equipment, including furniture, electric and water connections, closets, etc., will absorb Rs. 15,000. On the whole, it may be taken that the total eventual cost will not exceed one lakh of rupees, as against the sum of Rs. 2,35,000 originally estimated for a Borstal School for Mysore.

Cottages.

65. The cottages for the boys need not be costly or elaborate either in design or in construction. The rooms may be fifty feet long by sixteen feet broad, and built of stone, and roofed with asbestos sheets. The floors, however, should be paved with stone or cuddapah slabs, and not smeared with cowdung (as in some of the institutions visited by us outside); we have allowed for the small additional expense in our estimate. It will be possible, after some of the huts are built, to encourage the boys to take part in building the rest. Their services will of course be always utilizable for keeping the premises and the surroundings clean.

Scale of establishment.

66. Having taken into consideration the establishments maintained in the certified schools visited by us in Madras and Bombay, and also that recommended for a Borstal School by the Mysore Committee of 1937, we think that an establishment on the following scale will be required to run the new Children's Home. The recurring cost in the initial years will be about Rs. 9,000 per annum.

Appointment.	*Salary per mensem.*
	Rs.
Superintendent and ex-officio Head Master (a University graduate with, if possible, institutional experience and a Social Service Diploma)	150—10—250
Deputy Superintendent and Manager (a graduate with office and institutional experience)	70—5—120
One Medical Officer (a Sub-Assistant Surgeon) ...	50—5—60 plus Rs. 20 A.
Three Matrons, one for each unit (elderly woman with some nursing experience), each	30—5/2—50
One Accountant and Store-keeper ...	30—5/2—50
One clerk and typist	20—1—30

Appointment.	*Salary per mensem.* Rs.
Three qualified Teachers who will also be House-masters, (at least matriculates, preferably young men interested in the educational and general welfare of children), each	30—5/2—50
One Agricultural Instructor (with two years' training in an Agricultural School and Diploma)	30—5/2—50
A Drawing Master (with diploma) ...	30—5/2—50
Two qualified industrial instructors (one for textiles and tailoring, and one for carpentry, smithy and canework), each ...	25—1—35
One cook	15—1—20
One gardener	20—1—25
Physical instructor	30—5/2—50
Four peons, each ...	12—1/2—16
Two scavengers, each	10

Graded salaries.

67. The salaries proposed are fixed on a graded scale, so that the staff as a whole may form part of a self-contained service with adequate prospects. To have to look for further promotion in the regular Prisons Department is apt to develop in the members a mental attitude towards their work and their charges which (as they may imagine) will make them good jail officials later on.

Arrangements for training.

68. It now remains to indicate briefly the arrangements that have to be made in regard to the upbringing and training of the inmates of the Children's Home.

As we are to have only one Home for all children, the necessity felt elsewhere for selection and specialization will not arise. And it will likewise be unnecessary to have different grades of Certified Schools, senior and junior, as in some provinces.

Different age groups in separate units.

69. All children will be received in the Home, but they must be divided according to age into three groups, *viz.*, (1) children under ten years, (2) those between ten and thirteen, and (3) those between thirteen and sixteen; and each group must be allotted separate cottages. Two cottages, one in front of the other, will make one unit for cooking and social life, each with a matron and a house-master. The matron will combine in herself the functions of a friend and guide, like the mother in a family, especially for the younger children. In addition there will be the house-masters, the duties of which position will be

performed by the school teachers. The matrons and the house-masters will, like the other members of the staff, be provided with free quarters, lighting and water.

70. The medical care of the children must have regard both to the preventive and to the curative side. Arrangements should be made for the periodical weighing of children affected by venereal or other infectious or contagious disease, for the disinfection of clothing, and so on. Case sheets will be maintained in sufficient detail for every child, healthy or sick. Medical care.

71. Each child should be given four baniyans, two shirts, and two towels per year, in six-monthly instalments. The bedding may consist of a carpet, a cumbly and a cotton blanket. Clothing.

72. The children will do their turn in the kitchen along with the paid cook in preparing the daily meals. They will also do a lot of household work, such as gardening, sweeping, dusting, washing, ironing, and manual work. Household work.

73. The daily routine may be on the following lines:— Daily routine.

5-30 A.M.	...	The children get up.
6 A.M. TO 6-30	...	Half an hour's physical drill.
6-30 A.M. TO 7	...	Kanji.
7-30 A.M. TO 9	...	Workshop; theoretical instruction.
9 A.M. TO 11	...	Literary classes or workshop (in shifts).
11 A.M.	...	Morning meal: rice or ragi, dhall-soup with vegetables, and butter-milk.
12 NOON TO 1-30 P.M.		Workshop; practical work.
1-30 P.M. TO 4	...	Literary classes or workshop.
4 P.M.	...	Kanji.
4-30 P.M.	...	Boys are marched out in teams in charge of teachers. Cricket, hockey, football, volley-ball and other games.
5-30 P.M.	...	Return. Bath and washing of clothes; soap to be given.
6 P.M. TO 7	...	Evening meal. Rice or ragi with curry and butter-milk.
7 P.M. TO 7-30	...	Boys are taken out for a stroll. (Monitors will control, and peons watch.)
7-30 P.M. TO 9	...	English classes.
9 P.M.	...	Dormitories.

74. Except during meals and sleep, the children will remain outside the cottages most of the time, undergoing training or doing work or being otherwise engaged. A working day will consist of six hours in the case of children below ten, and of seven hours in the case of the Apportionment of time.

older ones. Out of these, three hours will be devoted to literary instruction, and the remainder to the learning of a craft or to manual work (agricultural or industrial). In addition there will be an hour's physical drill and outing. In the case of those who have completed their literary instruction, it will be sufficient to have continuation classes in the evening, the rest of the time being devoted to industrial training and labour.

Literary education.

75. Literary education will be primary in character, and cover instruction in all the prescribed standards. In special cases higher education may be arranged for in some outside schools in the City. Teaching will be through the child's mother-tongue (Kannada, Tamil, Telugu or Hindustani); but elementary English will be taught in the two higher standards.

Training in crafts.

76. Provision should be made for teaching the inmates some one or more of the following groups of crafts:—

A. *Agriculture*, including farming, vegetable gardening, poultry keeping, dairying, bee-keeping and other indigenous industries related to agriculture.

B. *Textiles*, including weaving (with improved handlooms), tailoring, button-making, rope-making, etc.

C. *Wood and metal work*, including carpentry, painting and polishing, blacksmith's work, fitter's work, tinning, etc.

D. *Leather work*, including shoe-making, belts, kit-bags.

E. *Miscellaneous*, such as rattan work, pottery, clay modelling, book-binding, signboard painting, laundry work, etc.

F. *Elementary building construction*, including drawing, masonry, building huts and road making.

In the case of girls, instruction will include weaving, needlework and embroidery, in addition to the elements of domestic science.

Aim of instruction.

77. In the selection of crafts the individual aptitudes of the children and their future interests will both be consulted. The courses of instruction will be so framed as to train the hand and eye in the use of ordinary tools, and to develop the general skill, intelligence and alertness of the pupil, in other words, his aptitude for industrial work generally.

Manufactures.

78. All cloth required for the inmates will be manufactured in the Home. The tailoring class will be in two sections, one for drawing and the other for learning

practical work on the sewing machine. The clothing of the inmates will be prepared in this section. Outside orders may also be executed for cloth, furniture and other articles manufactured in the Home.

Farming

79. The boys employed on farming will work in batches of 25 each in two shifts, in the morning and in the evening.

Moral instruction and lectures.

80. Moral instruction will be imparted in the educational classes by the regular paid teachers. Magic lantern lectures on health and other subjects of utility or interest will be arranged for at short intervals, if necessary by engaging outside agency. In addition, debates will be organized once a week or fortnight among the inmates.

Scouting, music, etc.

81. Scouting, ambulance and first-aid will form a regular part of the system of training. Band music will be taught to select pupils.

Games and recreation.

82. Open air games, camps and outings will be recognized features of the institution. Healthy outdoor games, both English and Indian, will be regularly played on an extensive playground attached to the Home. The children will be occasionally taken out for free cinema shows and to visit places of interest.

Gratuities

83. Boys who are industrious and well conducted may earn a gratuity of eight to twelve annas on an average per month, half of which they may be permitted to expend in buying requirements for themselves. For this purpose they may be sent to the market once a month in batches.

Cost of maintenance of inmates.

84. In order to complete our estimate of the recurring expenditure of the Home, we have to add the cost of maintenance of the inmates. We accept the estimate arrived at by the Committee of 1937, namely Rs. 100 per head per year for rations, clothing, and other charges. This tallies more or less with the basis underlying the capitation grant of from eight to nine rupees per head per month, allowed in Bombay and elsewhere to all voluntary certified schools which receive children committed by the Juvenile Courts. At this rate, the maintenance charges of 300 children will amount to Rs. 30,000 per annum; but of course the charges in the early years, till the maximum number of inmates is reached, will be much smaller. The receipts from the sale of manufactured articles may be set off against the cost of raw materials and contingencies. There is also the saving that will result in the expenditure of adult prisoners' institutions, an item which (as we have already pointed out) must not be left out of account.

SECTION E.

Special Institution for Adolescent Offenders.

Case of adolescent offenders.

85. We have to consider, next, the case of adolescent offenders, or youngsters between the ages of sixteen and twenty-one, who are likely, unless taken in hand in time, to take permanently to crime.

Borstal School.

86. The passing of the Borstal Schools Act will empower the Government to establish a special institution to which such persons can be sent by the Magistrates, there to be kept under discipline and control for a term of years. The aim is to give young offenders whose minds are still plastic a fresh outlook and a new bent. They will be taught a trade, educated and trained to follow an honest livelihood.

Term of detention.

87. The double object of reformation and training cannot be properly carried out unless the term of detention in the special institution is sufficiently long. The minimum period has accordingly to be fixed (as in recent legislation) at three years, and the maximum at five. But if a lad shows promise and does well, he may be able to reduce the period to about two years by earning remission. It will also be open to the authorities, at any time after six months from the commencement of the term of detention, to release an inmate on license if there is a reasonable probability that he will abstain from crime. (*Vide* also para 117.)

Nature of discipline.

88. The discipline of a model institution is a combination of mental, moral, physical and industrial training of a strenuous kind.

Literary education.

89. Literary education must be compulsory, and has to be imparted through one or other of the principal vernaculars—Kannada, Tamil, Telugu and Hindustani. The regular course of teaching will include all the prescribed elementary standards, and may be carried even beyond in exceptional cases.

It should be sufficient in any case to qualify the pupil for reading the news of the day or the letters of his friends, for writing well enough to communicate with others, and for a sufficient knowledge of arithmetic to keep his own accounts.

Period of instruction.

90. The period of literary instruction every day will be two hours, the pupils coming in batches. Such of

them as are of the highest standard may be expected to assist in teaching the other boys.

Lectures, books, etc.

91. The regular education may be supplemented by lantern and cinematograph lectures on educational subjects, hygiene, rural uplift, etc. For those more advanced, a library should be provided, so that the habit of reading may be encouraged. The inmates should be allowed to borrow books freely and to change them as often as may be convenient.

Religious and moral instruction.

92. Religious and moral instruction should receive special attention. This topic has been sufficiently dealt with in another chapter of this Report. It is needless to say more at this point than that exhortations by themselves are not sufficient to ensure the right moral attitude, but that the whole scheme and the working and atmosphere of the institution should conduce to the development of the primary virtues of self-control and self-respect.

Vocational training.

93. Vocational training in the institution must have special reference to the prime object of fitting the pupil for life outside. It may be that some skilled trades cannot be learned in two or three years' time; but even then a lad may be taught to use tools and simple machinery, and get a grounding for a mechanic's or other job. From the point of view of training and preparation for a living, industries like carpentry and blacksmith's work, printing and binding, tailoring, turning with a lathe, weaving, and laundry work, are particularly suitable. Agriculture is always an occupation of much value, especially for boys drawn from the cultivating classes; and so, if possible, a small farm should be attached to the special institution, besides a vegetable garden. Trained gardeners often command good wages. Whatever the trade or industry selected, each pupil should ordinarily devote six hours daily for training and labour combined.

Profitable industries.

94. It will not be out of place to mention that some of these industries ought to be distinctly profitable to the institution and tend to economize the cost of running it. Thus its carpentry section ought to be able to supply ordinary furniture required by Government departments and by hospitals; and its weaving section, things like bandage cloth, bedsheets, and towels wanted for hospitals, and other institutions. Its tailoring section should prepare the dress required for the inmates, and even perhaps

the uniforms for the police and other departments. A vegetable garden of about ten acres ought to grow all the stuff required for use in the institution, and even have some left for sale outside.

Physical culture, games and recreation.

95. Gymnastics, drill, out-door games and route-marches, all play an important part in physical culture. Similarly scout-craft, ambulance work, first aid practice, and matches against outside teams, contribute to the development of character. There should, of course, be a large play-ground for outdoor games and for parade. A weekly parade of all the inmates of the School, wearing uniforms of distinctive colours, arranged in squadrons, and marching to the accompaniment of the school band, not only forms a picturesque sight, but has a distinct educative value. For in-door games, concerts, etc., there should be a recreation room, which can occasionally be used as a theatre if fitted with curtains. The lads should be taken out once a quarter to cinema shows.

Dress.

96. Each inmate should be given once in six months a white cotton cap, two cotton shirts, two cotton chaddis or shorts, and a pair of towels. A cotton-woollen shirt or jacket may be issued during the cold season. In addition, he may be provided with a special uniform for sports and parade. Khaki suits need be given only to the monitors. The working suit will be washed once a week, and so also the house suit but on another day.

Bedding.

97. The bedding may consist of a carpet, two cumblies or blankets, and one bed sheet; but no pillows need be supplied.

Personal cleanliness.

98. Daily bathing should be insisted on, usually at the end of the day and just before the evening meal. Several platforms should be provided, where a score of boys can bathe at the same time. An ounce of washing soda may be issued to each inmate for washing his clothes. Soap may also be allowed to be bought by any one out of his private money.

Diet.

99. As the inmates will all be of or above sixteen years of age, they may be expected to do all the cooking; and it will be unnecessary to employ paid cooks. The daily diet may be as follows :—

Morning.—Ragi kanji and chutney.

Forenoon.—Rice or ragi, dhall soup with vegetables, butter-milk, half-lime fruit and salt.

Evening.—Rice or ragi, vegetables, mutton for non-vegetarians, and butter-milk for vegetarians.
Gingely oil may be given with food every day, and ghee twice a week.

Character of Borstal system.

100. It will be seen from what has so far been said that the Borstal system, as it exists to-day, more resembles a school than a penal institution. It is, in fact, many steps removed from a prison. The gates stand open all day, and neither at work nor at play are the lads confined within the walls. The routine is one of a strenuous working day, comprising physical training, six hours' work in workshop or outdoor party, and two or three hours of school or study. The object is not merely to keep the lads busy; they must be occupied in activities that are really useful and meaningful to them.

Daily routine

101. With this view the daily routine should be so arranged as to keep the boys suitably engaged right through the day. The following is a model time-table:—

6 A.M.	...	Opening.
6 TO 6-30 A.M.	...	Morning ablutions.
6-30 TO 7 A.M.	...	Morning Kanji.
7 TO 7-30 A.M.	...	Drill.
7-30 TO 9-30 A.M.	...	Literary classes in two shifts.
9-30 TO 11 A.M.	...	Industrial training and work.
11 A.M. TO 12-30 P.M.	...	Meals and rest.
12-30 TO 3 P.M.	...	Industrial training and work.
3 TO 5 P.M.	...	Literary classes.
5 TO 6 P.M.	...	Games.
6 TO 7-30 P.M.	...	Bath and evening meal.
7-30 P.M.	...	Locking up time.
7-30 TO 9 P.M.	...	Radio, or reading.
9 P.M.	...	Lights off. Sleep.

The House system.

102. In order to develop corporate spirit and to facilitate individual treatment, the House system has been introduced into most institutions, and is now considered fundamental to their organization. The inmates are divided into a number of Houses, usually four to six, and each consisting of from fifty to sixty boys. The grouping is according to the different age levels of the inmates. In each House, too, there are often smaller groups or sections, of ten to twelve lads each, under a leader from amongst themselves. There is friendly rivalry between the various Houses, and the spirit of competition between them provides an effective means of urging each individual to do his best.

Grades with progressive freedom and privileges.

103. At the same time, in order to encourage self-reliance and to recognize industry and special merit, it is found advisable to introduce a regulated system of grades carrying progressive freedom and privileges.

The inmates are divided into three grades, *viz.*, Ordinary, Star and Special Star.

The new arrival is placed in the ordinary grade, where he remains for at least six months. During this period he is employed on domestic or manual labour adapted to his physical condition, and he is carefully observed by the staff with special reference to his character, mental disposition and fitness for a particular industry. By diligence and good conduct a lad becomes eligible for promotion to the Star grade.

A daily record is kept for each inmate, and marks are allotted for each day. One who earns at least 500 marks is promoted to the Star grade, and is placed for training in a trade suitable to his disposition and capacity. By exceptional merit a pupil may even win promotion to the Special Star grade. On the other hand, one who is found to be exercising a bad influence, or is guilty of serious misconduct, is liable to be reduced to the ordinary grade or to the penal grade below it. While in the penal grade, an inmate is employed in separation on hard and laborious work, and forfeits all privileges including gratuity. The inmates in the higher grades are allowed to go out unattended, subject to reasonable limits of time and distance, and are in other ways trained to respond to trust and confidence. A small monthly gratuity is attached to each of the two higher grades, namely, eight annas and one rupee, respectively, per month. In addition, as soon as an inmate has achieved a certain degree of proficiency in whatever occupation he is employed, he is granted a small but regular allowance, proportionate to his industry. A portion of this money is reserved for disbursement to the adolescent on release, either in a lump sum or by instalments; the remainder he is permitted to spend at his discretion so long as nothing objectionable is purchased.

Such of the Special Star grade inmates as have only six months more to leave the school are permitted to move about freely, and even to live in separate cottages just outside the school.

Accommodation in blocks.

104. The House System necessarily implies associated accommodation in blocks. Cells are out of place

in a non-penal institution, except in the case of an intractable lad, or for purposes of segregation.

Leave, interviews, letters.

105. The inmates may be permitted to go on parole or on leave for about ten days in the year. They should be allowed to interview their parents or friends freely, and to write occasionally to their parents.

Medical attention.

106. The District Medical Officer should be the chief Medical Officer of the school, and as such exercise supervision over the purely medical side of the work.

Within the institution there must be a hospital in charge of a full-time Sub-Assistant Surgeon, living on the premises. There should be a compounder to assist him. Nursing should be done by a few of the inmates trained for the work. All serious cases should be sent to the General Hospital. From six to ten beds (according to the number of inmates) should be provided in an in-patients' ward.

All the inmates should be medically examined once a week, and weighed once a fortnight. A record should be kept for each inmate in which the details of the medical examination should be noted from time to time.

Individual record for each inmate.

107. Besides the medical record, it is necessary also to maintain an individual record (in the form of a register), containing particulars of each inmate, his educational and vocational training, his physical or athletic progress or activities, and other details.

Staff of Borstal School.

108. The staff for a Borstal School containing between 200 and 300 inmates may be more or less on the same scale as already suggested for the new Children's Home, with the omission of the matrons and the cook, and the addition of two teachers and two vocational instructors, and of a band-master or instructor in music. The guarding staff of peons will also have to be increased by two or three men.

The members of the Borstal School staff may be included in the same cadre as those of the Children's Home.

Cost of establishment and of maintenance.

109. The recurring cost of the establishment may be roughly put at about Rs. 9,000 per annum in the earlier years. As regards the maintenance of the inmates, the cost per head per month has been worked out in the Dharwar Borstal School at Rs. 14, but this includes the pay of the establishment. The cost of diet alone comes to less than Rs. 3 per head. All things considered, we think it would be safe to put the cost of maintenance

proper, including food, clothing and accessories, at Rs. 100 per head per year.

Discipline.

110. The maintenance of order and discipline will no doubt require that certain summary powers of punishment should be vested in the Superintendent. But these powers should be used sparingly and with restraint.

Punishment should ordinarily take the form of a reduction in grade and the deprivation of privileges for stated periods. Further punishments would be the imposition of some form of hard extra drill or physical exercises, penal diet, labour, or separate confinement for short periods. Corporal punishment should be rarely, if ever, resorted to. If at all employed, it should be administered in the manner of school discipline, with the birch and not the cane. For all ordinary offences (such as the use of *beedies*), it may be well to try the offender by a Court of Honour consisting of the boys themselves.

While discipline is essential, self-discipline is what is needed most, and this cannot be engendered by a mere system of mechanical obedience. The emphasis must be shifted from punishment or repression to constructive individual treatment. It is imperative that the lads in the institution should acquire the habit of work, if they are to lead useful lives after discharge. But this is not promoted by a routine of continual drill and parading.

Influence of staff.

111. The best-conceived regulations will not, by themselves, effect much. Boys of the class sent to the special institution can only be reformed by the contact and example of trained instructors with educated and sympathetic minds. What matters most is the personal influence of the staff, from the Superintendent downwards. The practice should be developed of officers working with the boys, and not just standing over them.

Special institution for girls.

112. If and when it is found necessary and possible to establish a special institution solely for girls, it should of course be placed under female superintendence. The general scheme of discipline and training may be more or less on the lines suggested for boys' institutions. In addition, all the girls must pass through a regular course of instruction in domestic duties, including cooking, sewing, and laundry work. They must also spend some time in the flower and vegetable gardens. All have to take up some form of handicraft, the proceeds of which may be sold, and the profits added on to a general fund to be utilized for providing comforts and amusements for

those who are well-behaved. Their training has mainly to be for a domestic life outside, and it is also the best possible training should they subsequently marry.

SECTION F.

Control and After-care.

Administrative control of special institutions.

113. The question of the administrative control of Borstal Schools for adolescent offenders and Certified Schools for children (not all of them offenders) is one that presents some difficulties. The discipline in the former is corrective or semi-penal in character, and in the latter wholly educative. Accordingly, in England the former institutions are under the Prison Commission, and the latter under the Reformatory Schools Department; but this arrangement has been adversely criticised for the reason, among others, that it splits up what is really a continuous process of training and education, prevents the problem of juvenile and adolescent delinquency from being treated as a whole, and does not enable proper industrial training to be given extending from school age to adult age.*

In British India.

114. In the Bombay Presidency the control of the Borstal Schools is with the Inspector-General of Prisons, while that of Certified Schools has been entrusted to a newly appointed provincial officer, the Chief Inspector of Certified Schools, who has also other duties connected with Criminal Tribes and the Backward (or aboriginal) Classes. In Madras the Inspector-General of Prisons exercises, under Government, controlling authority over all Borstal schools; and the same officer has been appointed Chief Inspector of Certified Schools under the Children Act.

Department of Public Instruction.

115. The balance of advantage is, in our opinion, distinctly in favour of co-ordinating, but not merging, the work of the two classes of institutions under the same general administrative control. We do not think it will be practicable to entrust this to the Department of Public Instruction, already sufficiently weighted with educational work proper. But we certainly do think that that Department should be closely connected with the management,

* *Vide* "English Prisons To-day" by Hobhouse and Brockway.

and have due representation on the Committee of Visitors, and that it should be assigned definite functions of inspection and advice.

Inspector-General of Prisons as *ex-officio* Chief Inspector.

116. Since we are recommending the appointment of a whole-time head of the Prisons Department, and inasmuch as the spirit and atmosphere of the Department may be expected, with the inauguration of the reforms we have in view, to move definitely in the direction of reformative treatment for all persons under the custody and care of the State, we conclude that it is best, on the whole, to place both institutions under the Inspector-General of Prisons, who may be designated *ex-officio* Chief Inspector in relation to them.

Release from special institutions

117. Boys committed to certified schools are generally released on license after the lapse of two-thirds of the period of commitment, and placed under the supervision of Probation Officers. In special cases, earlier consideration may be given. Occasionally, however, a child is committed for an insufficient period with the result that when he is released he is imperfectly disciplined and more or less unreliable. As a rule it is far better for the Court to commit children up to the maximum age of eighteen years, and for the authorities of the Certified School to apply for release within that period.

In the case of lads committed to a Borstal School, the detention is up to the age of twenty-one, and occasionally up to twenty-three years; but an individual may be released earlier on license after taking into consideration his antecedents, his behaviour at the school, and his home conditions and environment.

Conditions of success.

118. Release on license within the period of commitment, offering as it does provisional freedom under guidance, is itself an effective form of preparation for complete liberty. The chief conditions of success are two: regular friendly supervision by a Probation Officer, and the procuring of remunerative employment, so that the individual released may be enabled to strike root in ordinary life. In addition, residential accommodation will have to be found for completely destitute children, who have no homes of their own in which to live, during the unexpired portion of the commitment period, and until regular work can be found for them.

Importance of after-care.

119. In the case alike of juveniles and of adolescents so released, an organized system of after-care is of extreme importance, not less so than in the case of adult

prisoners. Such assistance is based in both cases on similar principles, and can, as experience elsewhere shows, be carried out under the auspices of one and the same organization, but if need be in different sections or branches of it. But where sufficient resources in men and material are available, it is undoubtedly preferable to have a separate Children's Aid Society, as in Bombay.

Functions of Central Society.

120. The finding of suitable openings for released lads will be an important part of the functions of such an organization, which may consist of a strong Central Society working through a number of local associations. In addition, the Society should require its agents to keep in touch with discharged pupils, to visit them regularly, to give them any guidance or assistance possible in their after-career, to ascertain that they are working steadily and abstaining from association with bad characters, and to maintain a record of the number who turn out well or ill in after-life.

Work of District After-care Association.

121. The work of a District After-care Association will cover a wide range. It will include:—

(1) The supervision of boys and girls in the district who have been released on license from a Certified School.

(2) The supervision of adolescent offenders released on license from a Borstal School.

(3) The carrying out of probation work, especially amongst juveniles under the Children Act.

To carry out this work properly, it will be found necessary to maintain a Remand Home, and to employ a paid Probation Officer, who may be assisted as needed by voluntary Probation Officers.

Financial assistance.

122. It is only after suitable arrangements have been made for remand and probation, that the Children Act can be put into force in any local area. But directly a District After-care Association is in a position to open a Remand Home and employ a Probation Officer, it should become eligible for a grant-in-aid from the Central Society. These grants may amount to one-half the salary expenses of the Probation Officer, and extend to financial assistance towards the rent charges of the Home.

Management of District Association.

123. As regards the management of a District After-care Association, this should be framed on a wide representative basis. The non-official element should predominate. Local bodies should be adequately represented, as the work involved is essentially civic in

character. Wherever possible, the Municipal authorities should be encouraged to provide annual grants in order that the District After-care Association may be assured of a regular income, in addition to ordinary subscriptions. It is essential that the Managing Committee should be representative of popular opinion, in order that adequate help from the public may be secured. In addition, notable members of all the different local communities should be included, since children of all castes and creeds require help. The choice of members of the executive is most important, as upon their character will largely depend the general efficiency of the whole organization. Office-bearing must be regarded as responsibility for active work, and not as mere honorary distinction. In the event of the secretarial work proving too heavy a burden for one person, joint Honorary Secretaries can be appointed. Lastly, it has to be remembered that the major part of the work of an After-care Association lies amongst juveniles, and care must be taken to appoint a certain number of ladies, especially those with educational experience, on the Managing Committee. Affiliation of the local District After-care Association to the Central organization will secure proper standardization of work throughout the State.

Position of Probation Officers.

124. Probation Officers, it will be seen, owe a double allegiance to the local Association and to the Court. Such an arrangement need not lead to any difficulty, for both should function in close co-operation, and act under Government control through the District Magistrate. The Probation Officer, so far as his duties as such are concerned, is first and foremost an officer of the Court. It is his duty both to advise the Court in cases relating to children, and also to serve it faithfully by carrying out its orders in the spirit and in the letter.

CHAPTER XII.

Recidivism.

1. Recidivists (*i.e.*, persons who relapse into crime, and hence are repeatedly convicted) fall into two fairly well defined classes. The first of these types—the "petty recidivist"—consists of habitual offenders whose delinquencies arise chiefly from weakness of character or of intelligence. The second class of recidivist comprises the professional criminals, and others who may be regarded as more fully responsible and deliberate in committing their offences against society. Two classes of recidivists.

2. As regards the petty recidivist, the treatment in prison, disciplinary and reformative, should be directed towards developing his intelligence and strengthening his character, teaching him habits of industry, and training him for some form of honest livelihood after release. The petty recidivist

The introduction of machinery into prison factories, and the instruction of prisoners in mechanical weaving and spinning, will give a certain number a trade that they may follow after release.

3. It is the case of the confirmed or professional recidivist that presents the greatest difficulty. It has been found by long experience that repeated imprisonment does not deter those who make a profession of the graver forms of crime from "continuing their war on society with a cynical indifference to the methods devised for its protection." It fails in most cases to teach the criminal the error of his ways, and only serves to harden and confirm him in his evil courses. The confirmed or professional recidivist.

4. It was considered in England that a new form of sentence should be placed at the disposal of the judges by which these offenders might be segregated for long periods of detention, during which they would not be treated with the severity of first-class hard labour or penal servitude, but would be forced to work under less onerous conditions. As loss of liberty would to them prove eventually the chief deterrent, so, by their being removed from the opportunity of doing wrong, the community would gain. Preventive Detention.

This was the genesis of the Prevention of Crime Act, passed in 1908, with a view to provide a new form of custody, known as "Preventive Detention." Under it a habitual offender with at least three previous convictions, who is again convicted of crime and sentenced to penal servitude, may "for the protection of society" be sentenced to preventive detention for not less than five and not more than ten years, commencing from the completion of his substantive sentence.

Its incidents.

5. The system is a milder form of treatment than that to which convicts sentenced to penal servitude or to first-class hard labour had been subjected.

The same kind of work is done as in ordinary imprisonment, but the prisoner may by his work earn money at an increasing rate. The money thus earned is credited to an account kept for him, and he may save it, send it to his family, or spend it on approved commodities at the prison store.

The dietary is more ample, more varied, and of better quality; the cells, the beds, and the general conditions are more comfortable; the life has greater variety; conversation and social intercourse are more freely permitted; the clothing is less degrading in character; and there is, at least in the parole lines, a very considerable escape from subservient routine and a beginning of self-order and self-discipline.

Protective and remedial.

6. The principle has been accepted that, apart from their length, sentences of preventive detention should be carried out more leniently than other prison sentences; for preventive detention is not punitive in character, but merely intended for the protection of society.

The treatment, therefore, is corrective and remedial rather than custodial. Discipline is usually maintained without difficulty, and misconduct is said to be rare.

Deterrent value.

7. A great deterrent value arises from the fear inspired in the mind of the dangerous and habitual criminal, that continued violation of law may entail the very unpleasant consequence of a long period of detention, supplementary to that inflicted for the particular offence.

Difference from prison.

8. An institution for preventive detention differs in material respects from the ordinary prison. The prisoner passes through various stages, each carrying with it more freedom and further rewards. If the final stage is passed satisfactorily, he is released on parole, and is taken under

the charge of a Prisoners' Aid Society, and given every help to establish himself as an honest member of society.

Drawbacks to system.

9. One drawback to the preventive detention system is that the convict can, by good conduct, reach the highest grade in two years; thereafter there is no stimulus to further improvement. The imposition of a limit for confinement has, as has been pointed out, vitiated the principle of the preventive detention sentence.

Another criticism is that directed againt the disastrous results of insisting upon a preliminary period of penal servitude. As the authors of "The English Prisons To-day" observe, before undergoing preventive detention the prisoner has previously suffered from the deteriorating and embittering effects of over two years of the penal servitude regime. The system of preventive detention does not therefore have a fair chance.

A most notable reform.

10. In spite of these defects and drawbacks, the system of preventive detention is one of the most notable reforms of recent years in England for dealing with the habitual criminal. Just as probation is the appropriate treatment for the youthful first offender, so is preventive detention coming to be recognized as the correct way of dealing with the confirmed recidivist.

Need for preventive detention in India.

11. There is a real need in India for some form of preventive detention, with or without indeterminate sentences. It has been advocated from time to time for many years by experienced penologists.

Criminal settlement as alternative to separate institution.

12. The proportion of really incorrigible recidivists in confinement at any one time cannot be large. We understand that there are not more than fifty to seventy people of this type in the Bangalore Central Jail. In the absence of a separate institution for their detention, and as an alternative thereto, we would suggest that persons of this type may be segregated in a special criminal settlement, much in the same way as criminal tribes, and under conditions of discipline, training, labour, dietary, etc., conformable to the essential features of the preventive detention system.

Thus, land reclamation and irrigation works may be started with convict labour in a suitable tract, and the men put on to the task with the promise that, if they are well behaved, they will be given an allotment in the land reclaimed, and also permitted to have their wives and children with them. Farm buildings and barracks

may be constructed in the middle of the area, but without any enclosing wall. Not only may prisoners be employed, but also released convicts who have not been able to secure work after release or are waiting for suitable work.

Such a settlement would be practically self-supporting after the initial outlay, and it would also be a better training for free life than retention in even the most up-to-date prison.

The scheme may, if necessary, be at first on an experimental basis, and may afterwards be made permanent if the results are favourable.

Indeterminate Sentence.

13. Another system strongly advocated by many, and now being tried in America, is that of the Indeterminate Sentence. According to it, a prisoner who has been several times in jail, and shows no tendency to try and mend his ways, is sent to a labour colony for an indefinite period, subject, however, to a legal maximum. His release will depend on the possibility of setting him out in an honest livelihood after he has been taught an industry during detention.

Its object.

14. The object is to convert detention from being a punishment into an educative process. The root principle being remedial treatment, the logical corollary, it is argued, is an indeterminate, in place of a predetermined or definite, sentence. At the present time, a mental defective who commits certain forms of offence is liable to indefinite detention in an institution. There are possibilities of his release; and so there would be in the case of indefinite detention for an offender who is not a mental defective.

Release dependent on good conduct.

15. The case of every such person would be reviewed from time to time, and if he appeared to be showing signs of reformation, he would be released on license and with proper safeguards. If he again fell into the hands of the police, he would be returned to the colony, with the prospect perhaps of ending his days there. Release is dependent on the recommendation of an expert Board, which will include a medical psychologist, members of the prison staff, and perhaps a representative of the convicting court. The prisoner, since he is made to realize that he can procure his release at any time by good conduct, is expected to co-operate in the task of his own reformation.

Treatment, both reformative and deterrent.

16. The treatment is thus both deterrent and reformative; and it is claimed for it that its enforcement will lead to a reduction in the present heavy cost of dealing with habitual crime.

17. On the whole, it cannot be denied that the system in question has great theoretical possibilities. But as an experiment, it has not been sufficiently long in operation for its results to be properly weighed and tested; and we refrain in the circumstances from making any positive recommendation in the matter.

Experiment not sufficiently tested.

CHAPTER XIII.

Criminal Tribes.

Criminal tribes, their origin.

1. The existence of whole classes of people who follow criminal pursuits of some kind as a hereditary occupation is a phenomenon peculiar to Indian society. Several of these classes even now bear names suggestive of their occupations, and all are collectively designated, in official and in popular parlance, as "Criminal Tribes." Some of these tribes are believed to be descended from races who lived in the jungles or led the life of nomads, and were not absorbed into the community at large. Others are representatives of classes who performed subsidiary functions in connection with the regular armies of the past, but found their occupations gone with the advent of peace and order. Others, again, are probably excrescences thrown up in the troubled times of social and political upheaval of past centuries, when men found it more profitable to live on the people at large than to lead lives of honest drudgery.

Include majority of professional criminals and recidivists.

2. Whatever their origin and subsequent vicissitudes, the proper control and reclamation of the criminal tribes has always presented a serious problem in criminal administration. Their numbers, relatively to the total population, are quite insignificant. But they include men who are responsible for a great deal of the reported crime, and probably for much crime that is unreported or untraced. The available figures show that a majority of the professional criminals and recidivists in the country are to be found in their ranks.

Nature of crimes attributed to them.

3. The crimes attributed to these tribes range from picking pockets, railway thieving, housebreaking, cattle-lifting and poultry-stealing, to robbery and dacoity, and even murder when required to effect escapes. Different tribes or gangs are said to specialize in particular varieties of crime. In many of the tribes, the children are trained to the art of thieving from their earliest years; and in many the women are experts in stealing and in passing out property stolen.

Lawful pursuits often a cloak to unlawful activities.

4. In recent times, members of the criminal tribes here and there have settled down to lawful pursuits, engaging in cultivation, gang labour, well-digging, road-making, railway contracts, and so on. But there is reason to suspect that in a good many instances pursuits of this nature are merely a cloak and an opportunity for unlawful activities.

Wandering habits prevent control over movements.

5. While detection is made difficult by the careful and elaborate nature of the plans and arrangements made for carrying out their crimes, the wandering habits of the tribes stand in the way of any effective control being exercised by the police over their movements. Entire gangs are known to move overnight with all their belongings from one district into a distant camp in another. Crimes are not infrequently committed by "reporting" members in the intervals between the hours of reporting. Owing to the absence of satisfactory checking at reporting centres, it is not improbable that offenders are at times able to provide themselves with alibis as the result of imperfect or incorrect records of checking.

Ineffectiveness of surveillance and punishments.

6. The strictest surveillance on the part of the police, including a rigorous control of movements and the insistence on roll-calls, individual reports, and so on, has in fact failed to repress the ingrained criminal habits of generations, any more than the award of repeated and increasingly severe punishments to men convicted by the Courts has acted as a deterrent to the perpetration of organized crime.

Unconstructive repression must give place to systematic reclamation.

7. It is impossible to resist the conclusion that the indefinite continuance of purely repressive measures only tends to perpetuate and harden the type, but cannot rescue the classes concerned from their past heritage of evil tendencies. Doubtless, measures of surveillance and control will continue to be needed for a longer or a shorter period. But the sooner a policy of unconstructive repression gives place to a policy of systematic reclamation, the better are the chances of permanent success.

New policy initiated by Government.

8. Such a policy has already been initiated by our Government in the endeavour to prevent abuses of the provisions of the Criminal Tribes Act, VII of 1916, regarding registration. The Government ordered a re-registration in 1933, confined to such adult male members as were proved or reasonably believed to be addicted to the commission of non-bailable offences, and to such female members as were actually convicted of such offences; and

they directed the cancellation of registration in regard to the rest. As a result, the total number of registered members, which was as high as 3,131 during the year 1930-31, came down to 869 at the end of 1938-39.

The "abeyance" system.

9. Satisfactory results have so far attended the system of holding in "abeyance" the restrictions about compulsory reporting heretofore applied in a wholesale manner to the members of tribes notified under Section 10. Those registered members who regularly report themselves for a period of not less than four months have now a chance of being freed from the obligation to report as long as their conduct is not suspicious or unsatisfactory.

Improvements and modifications required.

10. Meanwhile, there are a few directions in which the working of the law requires to be modified or impoved. It is essential that a quasi-judicial enquiry, with sufficient opportunity to those affected to show cause to the contrary, should be held before a tribe is notified under the Act as criminal. The need for a formal inquiry is even more imperative where individuals, and not tribes or gangs, are concerned, if the Act is not to be converted into an engine of oppression. Registration should not be enforced indiscriminately, but confined to hardened or dangerous criminals or those known to have pronounced criminal tendencies. The restrictions incidental to registration should be progressively reduced until they cease altogether at the end of five years. Children below sixteen years undergoing instruction should be exempted from liability to registration. Section 24, which renders a member of a criminal tribe liable to excessively severe penalties in the event of a subsequent conviction for certain offences, should be repealed. Action in these directions has already been taken or is under contemplation by other administrations.

Member of criminal tribe not necessarily a habitual criminal.

11. It should not be assumed that a man is necessarily a habitual criminal because he is a member of a criminal tribe. Owing to the special circumstances of his past life, and his inclusion in a group of people who have adopted crime as an almost legitimate method of obtaining livelihood, he does need special treatment of a reformative character, not however as an individual criminal, but as a member of a group or class.

Criminality due to economic causes.

12. Among the classes declared to be criminal tribes in the Mysore State are Woddars, Korachars and Koramars, Kepmaris, Handi-jogis and Gantichores. Criminal habits and tendencies in the case of these and other tribes are only hereditary in the sense that they

have been handed down from generation to generation because of the evil environments and influences surrounding them, and not less because no better ways of life were open or taught to them. Compelled to abandon their primal occupations by changed conditions and the advance of settled administration, and with the paucity of fresh openings adapted to their stage of life and civilization, many of them have adopted or adhered to careers of vagrancy and crime. To a large extent, therefore, economic causes have been at the bottom of the criminality of the tribes in question.

Reclamation must ensure reasonable degree of economic comfort.

13. One of the chief elements of a policy of reclamation must, accordingly, be to ensure for these communities a reasonable degree of economic comfort in the shape of adequate and remunerative work. They must be induced and even compelled to give up their roving habits, and to settle down in defined areas where regular means of livelihood can be found for their adult members. As far as possible, the unobjectionable features of tribal and family life should be maintained. At the same time, the younger members must be taken in hand at a sufficiently early age, removed from their criminal surroundings, and educated and brought up to honest ways of livelihood. Not least important, the whole process of reclamation should be conducted under proper, systematic and sympathetic supervision.

Law empowers Government to establish settlements.

14. Act VII of 1916, referred to above, empowers the Government to establish "industrial, agricultural or reformatory settlements," and to place therein any criminal tribe in respect of which such a step is considered necessary. Action in this direction has not as yet been taken, owing presumbly to considerations of a financial character.

Case of confirmed recidivists.

15. We have suggested, in another connection, that confirmed recidivists should be segregated in a special criminal settlement under a system of preventive detention. This will meet the case of the more dangerous and incorrigible members of the criminal tribes.

Regular settlement for criminal tribes essential.

16. Apart from such individual cases, it seems quite essential to provide a regular settlement for the much larger number who will be affected by the issue of a notification under Section 12 of the Act. Such a settlement is not, of course, to be regarded as "a novel type of jail, where members of the criminal tribes can be locked up indefinitely without the usual formalities of a trial".*

*Per the Indian Jails Committee.

The facts that it is based on the family as unit, that there are to be few restrictions on movement within and some opportunity for contacts outside, and that a family or individual can keep what is earned, are themselves sufficient to differentiate the one from another. A settlement should be viewed more or less as a controlled location or encampment, of which the primary object is the reclamation of the people concerned by a combination of economic, educational and social arangements. The ultimate aim is the absorption of the settlers into the general body of the community. When this is accomplished, the settlement, as such, will have served its purpose and become an ordinary village or suburb.

Settlements in the Bombay Presidency.

17. We have had occasion recently to study at close range the working of a few of the Criminal Tribes' Settlements in the Bombay Presidency. It may be useful to set down in general terms some of the main impressions we have formed, for reference in connection with similar institutions to be established in our State.

There are as many as fifteen such settlements in Bombay distributed over the whole province. To each settlement is attached a "free colony" for persons released unconditionally or on probation. In addition, there are five independent free colonies. The total population of all the settlements together on 31st March 1940 was 6,315, and that of the free colonies 8,394. In the largest of the settlements, that at Sholapur, with an area of 182 acres including the free colony, there were 1,145 and 2,194 persons under the respective heads.

Two settlements sufficient for Mysore.

18. Having regard to the much smaller number of people in the Mysore State, in respect of whom restrictive measures under Section 12 may be required, two settlements will probably be sufficient for all the tribes that we may have to deal with.

Space included in settlement.

19. Every settlement intended for families who are notified must be enclosed with high fencing to prevent escapes. The more troublesome members will be housed in an inner enclosure fenced with barbed wire. The space included within the settlement must be sufficient not only for erecting the required number of huts for all the families in their respective groups, but also for yards and playgrounds, for workplaces, for vegetable gardens, and so on. The offices, schools and worksheds will generally be placed just outside the enclosure.

Prospects of agricultural settlement.

20. The question of the proper location of a settlement is extremly important, and turns to a large extent on the availability of sufficient employment, regular and remunerative, for the settlers as a whole. There are some who advocate an agricultural environment as being peculiarly adapted for the purpose. But we have found little in our enquiries to support such a view. Purely agricultural settlements are difficult to form and maintain, and according to our information they have generally proved a failure. Apart from the fact that many tribesmen, especially of the wandering tribes, do not take kindly to agriculture, there is often an initial difficulty in the want of a sufficient extent of land suitable for cultivation, while the lack of remunerative work will be a constant impediment to progress. It may be that there is scope in the Mysore State for a modest experiment in this direction. If one is decided upon, it will be necessary to begin by investigating the suitability of the locality from the health and sanitary points of view, and also to consult the convenience and, as far as may be, the wishes of the tribe or gang proposed to be stationed therein. The settlement should be established where there is a sufficient area of good cultivable land, and adequate facilities for irrigation, preferably under one of the main irrigation channels. Some place in the vicinity of Mandya may possibly fulfil the necessary conditions.

Aid to agricultural settlers.

21. The people of an agricultural settlement will have to be started on their career of settled life with suitable and sufficient material aid. This may take the shape of assignments of small plots of land from five to ten acres in extent for each family, with a plough and a pair of bullocks, and other implements, a stock of seed, and a year's provisions free. If a dairy farm is to be attached to the settlement, the price of the cattle will have to be advanced. Subsidiary industries, like handloom weaving, bee-keeping, poultry-breeding and silkworm rearing, will have to be found for the men during their off seasons, and simple occupations like mat-making and basket-making for the women.

Advantages of industrial settlement.

22. The prospects of successful development are bound to be greater in the case of a settlement located in an industrial environment. Even here it will not by any means be easy to provide remunerative employment for all the people within the confines of the settlement. It

is not alone the adult members but whole families that have to maintain themselves by their own labour. This will only be possible through the employment of large numbers in mills, factories, distilleries, and other commercial undertakings. As a matter of fact, not only should it be possible to obtain work for many people in concerns such as these, but the work is also likely to be properly remunerated. In a mill area, especially, the payments are in ready money, and they are made direct to the workers by the mill authorities. It will be no small inducement, besides, that the settlers can have the benefit of association with persons living outside, in the free society in which they themselves must one day become absorbed, that their children can have good educational facilities, and that they and their families can count on proper medical attention. For all these reasons expediency dictates that the settlement to be established must be in the vicinity of an important centre of industry like Bhadravati or Davangere. The former is perhaps to be preferred as already containing a large number of labourers belonging to these tribes, who may well form the nucleus of the proposed settlement. The feasibility may also be considered of forming temporary settlements for members of the notified tribes in connection with Government or local works on a large scale, such as canals, railways, and roads, and of their being subsequently converted into or absorbed in a more permanent settlement.

Prospects of employment in commercial concerns.

23. In the Bombay Presidency nearly a thousand men and five hundred women from the settlements and free colonies are employed in the spinning and weaving mills at different centres, and a smaller number in match and sugar factories, paper mills and workshops. It is gathered, however, that of late the prospects of employment in commercial concerns of this kind are not quite so satisfactory, and that there has been a decrease in the number of skilled workers for whom employment can be found in mills, factories and workshops. The men discharged have to be employed on less remunerative work, and are naturally dissatisfied with the lower wages they get. It is not without significance that a marked fall in the average rates of wages earned by the settlers results generally in an increase in the number of crimes traceable to them, as well as of cases of absconding from the settlement.

Provision of employment within settlement.

24. While an industrial settlement cannot, like an agricultural settlement, be altogether self-contained, there must be provision within it for employing some portion at least of the superfluous labour in simple industries such as weaving, carpentry, tin-work, basket-work, mat-making and so on. Some of it will probably be absorbed in the building of huts for settlers, and some more in the work of vegetable gardening, and (if the settlement includes cultivable land) in agricultural work. Outside the settlement, unskilled employment will often be available in connection with quarrying, metal-breaking, burning bricks, road and tank construction, lumbering of timber, field work, municipal duties such as sweeping, and casual labour of various kinds. Women usually take part in many of these tasks both within and outside. In particular they pick up hand-spinning easily, and can earn a few annas a day by work done during their spare hours.

Vocational training for the young.

25. So far as the younger part of the population is concerned, vocational training is of the highest importance; but of course it will not be possible to arrange for its being given entirely within the settlement. The training there has to be limited to industries actually carried on within the settlement or free colony, like carpentry, masonry, weaving, basket-making, shoe-making, rope-making and gardening. Lads may also be apprenticed outside the settlement to these as well as other trades like hair-cutting, book-binding, and even motor driving and painting (to mention some actual instances). The fact that the training given in a settlement has, as a rule, to be supplemented by the training given in the mills and factories is an additional reason why settlements should as a rule be located in close proximity to industrial areas. The aim behind all the measures adopted is to qualify the young for those trades by which it is most likely they can earn a satisfactory living.

Instruction for girls.

26. The benefit of the manual training classes is not to be confined to boys. The girls too must receive regular instruction in such subjects as sewing, needle-work and spinning. Experience shows that a nursery class, where the older girls can be taught to look after children below five years when their mothers go out to work, is likely to be distinctly useful.

Removal of children from corrupting influences only effective solution.

27. When all is said, there is perhaps only one effective way of dealing with the difficult problem of hereditary crime. To leave the child in its home, trusting

to the effect of other influences to produce gradual amelioration of the standards of right and wrong,—as thought sufficient by some—is to take a too hopeful view of the situation. Admittedly children of criminal tribesmen, though attending schools and benefiting by the education, do continue to imbibe undesirable habits from their elders, and take to vagrancy and the commission of petty thefts.* Instead of exposing the young to the corrupting influence of constant association with adults brought up to esteem, and trained to follow, the hereditary arts of burglary, thieving and violence, it may be far better—from the point of view of their eventual welfare, no less than of the well-being of the community at large,—to take the children away from their parents after a certain age (which need not be earlier than six or seven years) and to place them in home-like surroundings, in institutions where they can be brought up under civilizing influences, properly educated, and taught honest methods of obtaining a living. Parents and children may still have opportunities of meeting, but not inside a criminal settlement. The power to take the necessary steps to effectuate such a policy is already reserved by Section 17 of the Criminal Tribes Act, which authorizes the Government "to separate and remove from their parents and guardians, and to place in schools" to be established for the purpose, the children of members of tribes notified under Section 12. Action in this direction will be more effective and less costly in the end than all those measures of repression and control, and even those imperfect methods of mental and moral improvement within a vitiated environment, that are now employed with more or less disappointing results.

Importance of education.

28. Apart from a thorough-going policy on the lines suggested above, it admits of no doubt that, among all the measures of reclamation now at the disposal of the authorities, none is of greater value than education under suitable conditions. Education must undoubtedly be compulsory for all children between the ages of six and sixteen, both in the settlement and in the free colony. Instruction need not ordinarily be carried beyond the primary stage; but boys and girls of exceptional promise must be helped to carry their studies further, in order that they may furnish teachers and leaders in the next generation, as well as qualify themselves for public service. There will have to be day schools within the settlement for the majority

* *Vide* Report of the Bombay Criminal Tribes Enquiry Committee, para 60.

of the children, and night schools for those who have to go out for work. In addition, it should be possible to arrange for a certain number of the more advanced pupils being admitted into outside local schools, vernacular or English. This will give such pupils the opportunity of coming in contact with children of the higher classes and learning better ways and manners. Children attending school may be provided with neat and inexpensive uniforms, which will give them a better and smarter appearance than their ordinary home clothing. The education of the adult population, too, must not be neglected; all possible efforts should be made to promote literacy among them, and impart information useful and helpful to men in their condition.

Sports and recreation.

29. Sports and recreation are rightly regarded as a positive contribution to the reformative work of a settlement. They exercise a healthy influence, especially on the minds of the younger generation, and help to fill usefully the hours that would otherwise be spent in harmful ways. They are thus intended to be a regular feature of settlement life; and both the settlers and the staff must be encouraged to take active part. A gymnasium will facilitate physical and athletic training, while occasional matches with outside teams cannot but promote healthy rivalry and the spirit of competition. Scouting is a very helpful influence in the formation of character and in the disciplining of the young, and every settlement school must have its scout troop and girl-guide company. Musical instruments and gramophones should be provided, and *bhajana* and *kirtana* entertainments encouraged and arranged among the settlers themselves. Weekly discourses on simple topics of every day life, including the essentials of moral and healthy living, may be varied with occasional lantern lectures.

Release from settlement.

30. After a family has served a minimum period of five years within the seettlement, the question will arise of allowing it to leave the settlement. Permission to do so should only be given if the conduct of all its members without exception has been satisfactory. Release from the settlement must usually be on probation, and may be either to the free colony or to one of the outside villages. Those found unfit to remain on probation, on account of their having been convicted of an offence or having otherwise broken the conditions of their licence, have to be recalled to the settlement to undergo a further period of

detention. On the other hand, persons whose conduct has been uniformly good should be eligible to have their registrations cancelled, with the result that they will be completely freed from the operation of the Act, in like manner as are members of tribes " denotified " by Government.

Free Colony.

31. The " free colony " is situated outside the enclosure of the settlement, and may even be at some distance from it. The occupants naturally have greater freedom and enjoy more privileges than those within the settlement. They are not subject to roll-call or other forms of discipline not covered by the conditions of their release on probation. They are able to mingle freely during the day with the ordinary population. The residential area usually presents a decent appearance, with rows of well-built and symmetrical houses owned by the colonists. Water, lighting and other conveniences of civic life are provided both here and within the settlement, usually at the cost of the inhabitants realized in the form of a small tax.

Medical arrangements.

32. The health of the community, both in the settlement and in the colony, must be well looked after. A small dispensary must be attached to the settlement and equipped with the usual medical requisites. In some settlements a private medical practitioner is engaged to pay weekly visits; but it may probably be better to depute a Government Medical Officer, even if only for part-time duty.

Importance of prohibition.

33. We gathered from our enquiries that, in those areas of the Bombay presidency in which prohibition has been enforced, the results, so far as the people of the settlements are concerned, have been distinctly beneficial. Drunkenness and disorderly behaviour have diminished. Settlers are more regular in their attention to work, and in payment of dues such as sanitation charges, and house-building and society instalments. There has been less demand for fresh loans. The health of the settlers has also improved. There cannot be any doubt that the right policy, so far as criminal settlements are concerned, is one of absolute prohibition, and the removal of all opportunities and temptations for dissipation in the shape of drunkenness or gambling.

Co-operative Credit Society.

34. Attached to every colony and settlement there must be a co-operative credit society for the benefit of the community. It will receive and invest savings deposited

both by free colonists and settlers, advance loans to them when needed, take up contract work, and make itself generally helpful. Among other things it may undertake the building of decent huts for settlers, which it will then hand over to them for occupation on a monthly instalment basis. It is hardly necessary to stress the importance of giving all possible facilities to members of criminal tribes to own property and to make and invest savings, as a powerful means of weaning them from lives of crime.

Panchayat for local affairs.

35. The conduct of local affairs in the colony and the settlement will no doubt be facilitated by utilizing the services of the more staid and trustworthy men as members of a panchayat vested with the power to dispose of ordinary matters, and to recommend action to higher authority in other cases. This will help, incidentally, to build up a sense of dignity and responsibility among the residents as a whole. Some form of privilege or reward may be devised for those who perform their duties on the panchayat conscientiously.

Connection of police with settlement.

36. Though the presence of a police patrol outside a settlement may be necessary for the protection of property in the neighbourhood, it is not desirable to have the police within the settlement. To use the language of the Indian Jails Committee : " the less they (the police) have to do with the settlers, the better." It should ordinarily be possible to enlist the services of trustworthy members of the settlement or colony to act as watchmen or guards.

Initial expenditure on new settlement.

37. It is not easy, at this stage, to make any accurate forecast of the probable expenditure of organizing and running a new settlement of the kind we have in view. Assuming that the land required will be freely available, the initial expenditure will comprise the cost of enclosing it, and putting up a few inexpensive buildings for office, school and hospital purposes, and to serve as worksheds ; it must also include advances of subsistence money to the first settlers and of materials for huts to be constructed by themselves.

Establishment and its cost.

38. It will be necessary to entertain a small establishment, consisting of a Manager or Superintendent of the status of an Amildar, on pay Rs. 150-25/2-250, an Assistant Manager on Rs. 70-5-120, two craft instructors on Rs. 30-5/2-50 (one for carpentry and another for weaving), two teachers for the literary classes on the same

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pay, under a Headmaster on Rs. 70-5-120, who will also be the probation officer of the settlement *ex-officio*, a medical officer (who need not be employed full-time) on an allowance of Rs. 20, and a compounder on Rs. 20. A menial staff of (say) three peons on Rs. 10-½-15, six guards on Rs. 15-½-20, and three head guards on Rs. 20-1-25 each, will also be required. The ordinary domestic service (such as cooking, sweeping and scavenging) can be done by the settlers and colonists themselves.

Private management inexpedient.

39. There remains, finally, the question of the management and control of Criminal Tribes Settlements.

Having made careful enquiries and studied the question in its various aspects, we are led to the conclusion that, so far as the Mysore State is concerned, it would not be expedient to entrust the management of such an institution to private agency, religious or secular. The experiment was tried for some years in the Bombay Presidency, but has latterly been almost entirely abandoned as the result of the investigations and emphatic recommendations of a Committee of Enquiry presided over by one of the Ministers.

Private management is found by experience to be neither more efficient nor more economical than direct official management. The State has to make a substantial capitation grant in every case, which means the virtual financing of the entire institution. In the absence of facilities for adequate control, abuses of various kinds are likely to occur. Private management is also quite unpopular with the settlers generally.

Administrative control of Inspector-General.

40. As regards the administrative control of Criminal Tribes Settlements in the State, this must undoubtedly remain under Government agency. In Bombay the Backward Class Officer is also in administrative charge of all the Criminal Settlements in the presidency. This function in the Mysore State may properly be assigned to the Inspector-General of Prisons, who, under our recommendations, will be a full-time officer. That a single department with an expanded outlook should be in charge of institutions concerned with the reformation of actual as well as potential criminals, is, in our opinion, a decided advantage in many ways.

The preventive and punitive, as distinguished from the reformative, aspects of control will, naturally, fall within the purview of the Police Department.

CHAPTER XIV.

Prison Administration.

SECTION A.

Administrative Control of Prisons.

Control of Prisons.

1. The control of the prisons in the State was originally vested *ex-officio* in the Chief Judge of Mysore under the designation of "Inspector-General of Prisons". In 1897 it was transferred to the Senior Surgeon, and is being administered by him as a separate department within the combined charge. The office work is attended to by a small clerical establishment of four hands, under an official borne on the staff of the Medical Department, who acts also as Personal Assistant to the Inspector-General of Prisons.

Combined with charge of Medical Department.

2. A retired Senior Surgeon, whom we examined, stated that his duties when in office were not made more onerous by his holding the additional charge, and that he used to devote about an hour daily for prison work, and found it possible to do a certain amount of inspection of jails and lock-ups during his tours of inspection of medical institutions and his visits to Mysore during the Birthday and Dasara occasions.

Subordinate position.

3. The bare recital of the facts is sufficient to show the relatively subordinate position which the prison system has so far occupied in the administrative machinery. Whereas elsewhere the control of prisons is considered sufficiently important to be placed under a whole-time officer, in Mysore it is an incidental business for the spare time of an officer with other major functions to perform.

Senior Surgeon's duties heavy and taxing.

4. As a matter of fact the Senior Surgeon is an extremely busy officer. Even after the constitution of Public Health as a separate department, his duties are heavy, multifarious, and taxing. Not only is he at the head of one of the most important departments of the State, but he is the chief medical adviser to Government, and may well have professional duties besides. He is also, in his individual capacity, on the committees of

various public bodies, among which the University Council, the Academic Council and the Senate absorb an appreciable portion of his available time. Like other heads of Departments, his presence and participation are necessary and expected at the meetings of the Representative Assembly and the Legislative Council. It is neither just nor expedient to tack on to an officer already burdened with so many and such engrossing duties the task of guiding and controlling another department not specially concerned with the discharge of medical functions any more than is the Military Department or the Department of Public Instruction.

Duties and responsibilities falling to Inspector-General.

5. On the other hand, the management of prisons, the maintenance of discipline, the proper treatment of the various classes of prisoners, the general well-being of the inmates, the regulation and development of prison labour and industries, the control of finance, the scrutiny of accounts, the investigation of complaints, the removal of defects, the possibilities of improvements,—these and other matters require close and continuous supervision and study, and ought in the aggregate to engage the full attention of a separate officer. More than all, the post of Inspector-General carries with it a grave responsibility in respect of the present lives and future welfare of thousands of people committed to the custody of the State prisons.

Current duties.

6. Even in British India, where there is a separate head of the Prisons Department for every province, it is said that the discharge of current duties takes up so much of that officer's time that he has little leisure for the study of complicated problems or the working out of large schemes of improvement.

Prison regime in Mysore.

7. So far as Mysore is concerned, the prison regime remains more or less stationary as compared with the neighbouring provinces. And its predominantly routine character is sufficiently illustrated by the dreary and unilluminating character of the administration reports turned out year by year with only the old figures erased and new figures put in their places.

Present arrangement anomalous and unsuitable.

8. It may be that the work of the Department, as an annex to the Department of Medicine, has so far been conducted without noticeable incidents or serious criticism; but that is no reason why an arrangement which on the face of it is anomalous and unsuitable should be indefinitely continued.

Full-time head required in interests of Department.

9. A change in the existing arrangement is also necessary on another ground. It is to be anticipated that, following the inquiry undertaken by the present Committee and the formulation of its detailed recommendations, it may become necessary in the near future to introduce many and varied changes in the prison administration of the State. There is the further circumstance that, under our suggestions made in previous chapters, the working of the special institutions for children and adolescent offenders and of the reformative side of the reclamation of criminal tribes will fall within the administrative charge of the head of the Prisons Department. It is in the best interests of the Department that there should be from the very beginning a full-time head who can devote the needful attention, care and energy to the working out and putting into operation of such measures of reform as may be sanctioned by Government.

Status above Deputy Commissioner.

10. The officer selected should, of course, be of a status above that of a Deputy Commissioner, especially because the latter will have to act in subordination to the Inspector-General in matters relating to prison administration.

Control of medical side of work.

11. It goes without saying that, since attention to health conditions will always occupy an important place within the sphere of prison management, it will be necessary to invest the Senior Surgeon as such with the power of inspecting and advising on the medical side of the work of all penal and reformatory institutions.

Qualified Assistant to Inspector-General.

12. Even with a full-time Inspector-General, it will be desirable to give him the help of a qualified Assistant, preferably one with some experience as Superintendent of a Central Jail, who has studied prison problems and has a sound working knowledge of actual prison conditions.

His duties.

Besides attending to office work and such duties of periodical inspection as may be delegated to him, the Assistant may advantageously be entrusted with the supervision of the industrial concerns of prisons, the procuring of orders and their apportionment among the various institutions, the wholesale purchases of raw materials, the distribution to Government departments and sales to the public of jail manufactures, and other similar duties. He will also be available for charge of the current work of the Inspector-General whenever the latter goes on leave or deputation.

Jail Manual and reform proposals.

13. It should be one of the duties of the Assistant to maintain the Mysore Jail Manual up-to-date, to see that all additions and alterations of Rules sanctioned from time to time are duly incorporated in the Manual and also regularly communicated to subordinate authorities, and to keep himself in touch, as far as information is available, with reforms effected and proposals for reform under consideration in other parts of India and elsewhere.

Mysore prison system and Rules same as in British India.

14. It should not be overlooked that the prison system of Mysore is the same in essentials as in British India, and that the Rules in the Mysore Jail Manual are to a large extent identical with those in force in the British Indian provinces, having been, indeed, almost altogether modelled upon them.

General uniformity desirable as regards principles and policies.

15. It is true, of course, that in a vast sub-continent like India, wide differences in local conditions and circumstances are natural and inevitable. There is likely to exist a certain amount of divergence of practice in matters of detail, such as the composition of the staple diet, the nature of the clothing and bedding required for health, the prevailing forms of labour, and the varieties of industries to be established in particular prisons, to mention only a few instances. But so far as the general principles and policies governing prison administration are concerned, there seems little reason or occasion for noticeable differences and deviations. Without going so far as to say, with the author of "Indian Prisons," that there should be one Jail Manual for the whole of India based on identical enactments, we think it is desirable in every way to have general uniformity in such large matters as the prevention of crime, the separation and treatment in prison of prisoners of various classes and of youthful offenders in special institutions, the functions of visitors, the objects of after-care, the form and scope of statistical information, and so on.

Periodical provincial conferences.

16. It would be a great advantage if the Inspector-General of Prisons in Mysore could be enabled to take part in the periodical conferences, if any, held by corresponding officers in other parts of India. By comparing notes and exchanging ideas and by freely discussing local experiences and difficulties, the officers so conferring would be helped to introduce desirable improvements, and as far as possible maintain uniformity in important matters of prison administration.

SECTION B.

Management and Supervision.

Recruitment of Jail Superintendents on grounds of individual fitness.

17. Much can be, and has been, said for or against making recruitments to the office of Jail Superintendent from particular services and professions, military, medical, police, judicial, civil service, educational, industrial, and so on. Opinions, naturally enough, vary considerably according to personal preferences and prepossessions, and it will serve no useful purpose to subject them to detailed examination. It will suffice to observe that, in our considered opinion, the selection of a person for the place of Superintendent must depend solely on his individual fitness, and not on hypothetical and fanciful assumptions as to which type of special education or sphere of official or professional experience is best calculated to engender the appropriate mentality and temperament.

And from wide range of choice.

18. We are not in favour of treating the purely administrative appointments in the Department as the preserve of any particular profession or walk of life. The casual acquaintance with the vagaries of human behaviour in certain of its aspects which service in a technical department like law, police, medicine or education may be supposed to yield, cannot make up for that intimate knowledge of the scientific principles and practical applications of penology which only comes with special study and experience. It is of the utmost importance that prison officers, in the higher ranks especially, should invariably be educated and cultured men and, not less, that they should be men of high principles, conscientious and devoted to their work. If such men are to be recruited, it must be by a process of discriminative selection from a wide range, and not by conventional rules and methods tending to limit the sphere of choice.

Prison management requires special training.

19. The proper administration and management of a prison is in these days a difficult and complex matter, and requires special training of its own. It comprises various important branches of business, such as general superintendence, correspondence and accounts, the maintenance of discipline, the regulation of labour, attention to well-being, reformative training, medical treatment, and sanitation,

Larger prisons should have whole-time Superintendents.

20. If the work as a whole is to be efficiently carried on, it is essential that, so far as the larger prisons —the Central and District Jails—are concerned, there should be for each a whole-time Sperintendent, personally responsible for the various branches of business other than medical treatment.

Combination of administrative and medical functions not desirable.

21. There is no lack of unbiassed testimony to the fact that the combination of administrative and medical functions in one and the same person as Superintendent does not ensure either administrative efficiency or the needs of adequate medical attention to prisoners. It generally involves some sacrifice of the interests of one or other or of both. As pointed out by the Indian Jails Committee while stressing this point, "it is undoubtedly difficult to find combined in the same individual the varied gifts generally required of the Superintendent of a large jail in India, such as the training, judgment and temper of a firm, yet wise, disciplinarian, the business capacity of an administrator who has to provide rations, clothing, and labour for a large population, and the professional skill, knowledge and sympathy of an expert physician."

22. As a matter of fact, even if the Superintendent is a medical man, he will not as a rule be able to discharge fully and adequately the statutory duties of the medical officer of the prison, for which another medical man will ordinarily be required.

It is not unlikely, too, that the combination of duties may tend to obscure abuses that would otherwise come to light if the medical officer had nothing to do with the administration of the prison.

Functions should be separated, with a full-time officer for each.

23. After all, each of these functions—the medical and the purely administrative—is as heavy as it is important, and requires the services of a full-time officer if it is to be properly attended to.

On the whole, the balance of advantage is decidedly in favour of a separation of functions as between a non-medical Superintendent and a medical officer of equal official status. Under an arrangement whereby the medical officer is free to carry on without interference his professional, that is purely medical, functions, but in administrative matters is subject, like all other officials of the prison, to the control and authority of the Superintendent, there ought not to be room for jealousies and misunderstandings or other impediments to the smooth working of the machinery.

Medical men and permanent prison service.

24. We by no means countenance the impression that medical men are less fitted than others to hold the administrative charge of prisons. Such would be very far from the truth. There have been several excellent medical Superintendents in the past ; and in British India, Superintendents of Jails are still generally (though not invariably) taken from members of the Indian Medical Service. But the fact remains that prison administration is a science by itself, and has to be learnt like any other; and a system. or absence of system, under which men with no previous training or experience or special aptitude for such duties are brought in from outside for a few years and are then taken away again, with all their acquired experience lost to the Department, is wasteful and inefficient and ought not to be perpetuated. Permanent prison service is not likely to attract medical men of the right type, as it would cut them off from the practice of the profession, for which they must have devoted much time and study and gone to considerable expense.

Knowledge of penology and penal systems and methods.

25. Officers appointed as Superintendents of jails should be well conversant with the scientific as well as practical aspects of penology, and have a sufficiently wide acquaintance with the penal systems and methods in force in India and in foreign countries.

Practical training during probation.

26. Practical training is of no less importance ; and to ensure this, it is necessary to insist that, before any person who has not had previous service in the Prisons Department is appointed as a whole-time Superintendent, he should be placed for at least six months under a senior Superintendent in a Central Jail, and should there receive a thorough training in all branches of prison business including some typical industries, besides acquainting himself with the Acts and Rules bearing on prison administration.

This period of training will naturally count towards the period of probation which all officers newly entertained should undergo before they are finally confirmed in their posts.

Study leave.

27. In the case of all officers including those already in service, the rules relating to study leave should be so extended as to enable a Superintendent to devote some period of any leave he may take out of Mysore to the study of prisons and connected questions elsewhere.

A self-contained technical service.

28. We do not overlook the fact that, though the range of choice must be wide, the higher Prison service will by itself be a somewhat limited one. This is bound to be the case with every technical department where the work is specialized, and men are first carefully selected for their individual fitness and then properly trained for the duties they will have to perform.

The objection that, in a self-contained service, a person might be retained too long in the same post is not one that can be rigidly applied in the case of a limited technical department; and if it does possess some validity, it should not outweigh the advantage of special knowledge and practical experience in dealing with the peculiar conditions obtaining in prison.

Cadre of Superintendents.

29. As a matter of fact, under the arrangements contemplated by us there will be five prisons which will require full-time Superintendents, namely, the two Central Jails for casual and habitual offenders, respectively, and the three District Jails at the headquarters of the Sessions Divisions. In addition, the proposed new office of Assistant to the Inspector-General will itself be filled by an officer of the same status. All these appointments may constitute a single cadre in three grades, with an appropriate time-scale for each, promotion from one grade to the next above being determined by vacancies and merit. The lowest grade may have three places, on a salary of Rs. 200—10—300 each, intended for officers appointed to the charge of the District Jails. The next higher grade may likewise have three places on Rs. 350—10—450 each, for the Superintendents of the two Central jails and the Assistant to the Inspector-General; but to prevent undue stagnation and as an encouragement for meritorious service, an officer who has put in not less than five years on Rs. 450 may be specially selected for promotion to a preference grade carrying a salary of Rs. 500—$\frac{25}{2}$—600. Free quarters must be provided for all officers in administrative charge of prisons.

Charge of sub-jails at district head-quarters.

30. The lock-ups at district head-quarter stations, which will, under our recommendations, be designated as sub-jails, are now in the immediate charge of the District Medical Officers, who look after both the medical and the administrative side of the work. The District Medical Officer is usually a heavily worked official. He has many other duties besides the charge of the sub-jail, and can

only pay it a hasty visit each day, and stay there a very short time. He has to go out occasionally on tour, leaving the charge of the sub-jail in the hands of a junior officer. The result is that too much of the work is apt to be in the hands of a subordinate prison official.

Must be separated from medical work and assigned to a headquarter Magistrate.

31. This is not a satisfactory arrangement in the interests either of the sub-jails or of the medical work of the district. We think that efficiency and convenience will be distinctly promoted by separating the administrative from the medical functions, and entrusting the former to a stationary officer of some rank. In this view, as also on other grounds, we would recommend that one of the First Class Magistrates at headquarters, who may be a Revenue Sub-Division Officer or the Treasury Assistant Commissioner, may be placed in administrative charge as Superintendent of the Sub-jail, the medical side of the work being attended to by the District Medical Officer or, in his absence, by his next senior Assistant, with a suitable allowance.

Charge of mofussil sub-jails should be vested in Special Magistrates.

32. As regards the lock-ups or sub-jails in the mofussil stations, it is preferable that the administrative charge should be vested in the Special Magistrates, rather than in the special Sub-Registrars, who are officers of smaller status, and have no particular connection or acquaintance with the treatment of prisoners under trial, and no special recommendations for the task beyond a certain amount of spare time on their hands.

The work of supervision will be facilitated if the sub-jail is located in a building attached to the Special Magistrate's Court or in its near vicinity.

Where no Magistrate present, senior Medical Officer to act.

33. In British India the Sub-Divisional Magistrate is usually the Superintendent in charge of the sub-jail of his sub-division. During his absence from the station, some other Magistrate acts as Superintendent; if there is none, the Deputy Superintendent of the sub-jail acts as Superintendent, in addition to his other duties. The Assistant Surgeon or Sub-Assistant Surgeon attached to the sub-division is, if qualified, appointed as Deputy Superintendent. Following this convenient arrangement, we suggest that, where there is no Magistrate present, the senior Medical Officer of the station should act as Superintendent in addition to his other duties.

Supervision of District Magistrates.

34. Again, the sub-jails in a district are under the supervision and authority of the District Magistrate, but subject to the general control and superintendence of the

Inspector-General. It is explicitly laid down in some provinces (*e.g.*, in Bengal), that the orders issued by the Inspector-General in all matters relating to the internal economy, discipline and management of sub-jails must be obeyed by all concerned,—Magistrates as well as officers in immediate charge of the sub-jails. District Magistrates are required to visit the sub-jails in their districts at least once a year and the sub-jails at district headquarters ordinarily once a month, and to submit to the Inspector-General a report on the state of each sub-jail.

The above also represents substantially the arrangements in force in Mysore in regard to the supervision and control of sub-jails (or Magisterial lock-ups), except for the substitution of the designation "Deputy Commissioner" for "District Magistrate." Seeing that it is the Magistracy, not the revenue executive, who are in touch with prisoners under trial, over whom, moreover, they have powers to commit, to remand, to release and (in cases within their jurisdiction) to convict, we think that the earlier nomenclature should be restored simultaneously with the general revision of the Prisons Act and Rules.

Reports to be submitted to Inspector-General.

35. The following are the principal points on which information should be furnished in the reports to be submitted to the Inspector-General regarding sub-jails:

(*a*) the state of sub-jail buildings, and whether the rules relating to sanitation have been properly carried out;

(*b*) the correctness of the registers, and the date up to which they have been posted;

(*c*) the state of the warder guard, and the arrangements for guarding the sub-jail;

(*d*) the modes of employment, if any, of the prisoners;

(*e*) breaches of discipline and punishments;

(*f*) the arrangements for the transfer of the prisoners on conviction to the district jail;

(*g*) whether the prisoners are properly fed and supplied with clothing and bedding both in the sub-jail and when transferred;

(*h*) the rates charged for rations as compared with the ruling market rates;

(*i*) the arrangements for the performance of clerical work; and

(*j*) the number of visits paid to the sub-jail by the Superintendent.

SECTION C.

Executive and Technical Staffs.

Prison service not sufficiently attractive.

36. There is a general complaint that Prison service, especially in the lower grades, is not sufficiently attractive. Men are not always selected with strict reference to their special qualifications and aptitudes. They are not previously trained for their duties, but left to learn them in the course of discharging them. Nor are they paid salaries commensurate with the arduous and disagreeable nature of their work, and sufficient to place them above ordinary temptations to dishonesty and corruption.

Factors in tone of prison.

37. The tone of a prison is determined by the stamp of officers by whom it is run, the zeal and energy actuating them, the way in which the inmates are treated, and generally the attitude of the staff towards them and towards their work. A well-run prison can be achieved only when there is a duly qualified and disciplined staff with a good social status, a staff which may be trusted to go about its duties with firmness, discrimination, tact and sympathy.

Importance of personnel.

38. The personnel of the prison staff is of vital importance from every point of view, and particularly from that of any improvement in the prison system. The staff of English prisons is the envy of other countries. That is because the men are carefully selected and specially trained, and their conditions of service are good.

Attitude of of Superintendent.

39. It must be recognised that the general attitude of the Superintendent has a distinct influence upon all aspects of prison life. If he be at all sympathetic in his manner towards prisoners, the subordinate officers will be likely to adopt a similar bearing. If he be a stern disciplinarian, the same attitude will find expression in the rest of the staff.

Executive staff.

40. The Jailor and the Deputy Jailor constitute the chief executive staff of a prison; and upon them as much as on the Superintendent himself depends its efficient management. As observed by the Indian Jails Committee:—"No Superintendent, however constant his attention and vigilance, can be in quite such close touch with the jail administration as is the Jailor. The Jailor of any jail, and especially of a large central jail, where the annual expenditure amounts to several lakhs of rupees and

where well-to-do prisoners are often received, is subject to manifold temptations."

Qualities of good Jailor.

41. It is desirable in every way to have for the post a man of unblemished character, who understands his duties thoroughly, and is a strict disciplinarian, but kind and considerate both towards the subordinate staff and in his dealings with the prisoners under his charge. If he is to be a person with some experience of the world and a good knowledge of human nature, he must not as a rule be too young.

Qualifications and training for posts of Jailor and Deputy Jailor.

42. Recruits for the posts of Jailor and Deputy Jailor should invariably be University graduates. Those selected should undergo a preliminary training in the details of prison management in one or more of the State prisons, and may also, with advantage, be deputed to visit some of the prisons in the neighbouring provinces.

They should also go through military training for six months, and should be required to pass the local tests in Accounts (Lower), Criminal (Higher), and Prisons.

Course of study for officers of superior grades.

43. It would be very useful to arrange for a course of study in certain technical subjects for the benefit of Prison officers of the superior grades, including Superintendents, Jailors and Deputy Jailors. The course should cover the essential principles of the sciences dealing with crime, punishment and prison management, the scope of preventive and corrective measures, and the broad principles of psychology and mental treatment. It may be possible to conduct such a study under the auspices of the Mysore University as part either of the Arts Course (in Mental and Moral Philosophy) or of the course in Law when one is constituted.

Salaries of executive staff.

44. It is in the interests of economy and of good administration that sufficiently liberal terms should be granted to the executive staff.

Pay of Jailor.

45. The pay of a Jailor at present is Rs. 150-5-175. The maximum may be raised to Rs. 200, to be reached in the ordinary course in ten years. Even then it will be well below the maximum, namely Rs. 250, allowed in various British Indian provinces.

Appointment should be gazetted.

46. The appointment of Jailors should be gazetted. We understand that it is under contemplation in the Madras Presidency to alter the designations of Jailor and Deputy Jailor to more suitable ones. So far as Jailors here are concerned, we would suggest their being given the additional designation of *ex-officio* Assistant Jail

Superintendents. This would not only show their relation to the office of Superintendent, but also indicate that a man of the requisite qualifications and experience in the Jailor's grade is eligible for advancement by merit to the position of Superintendent.

Clerical work should be reduced.

47. The Jailor is essentially an executive officer, constantly on the move about the jail, seeing that the prisoners are at work, mixing with them and studying their character, preventing irregularities and favouritism, and supervising the running of the whole machinery of prison administration.* Every endeavour must be made to reduce the amount of his clerical work, so that he may spend a larger portion of his time outside his office and in the direct executive control of the Jail.

Pay of Deputy Jailor.

48. The Deputy Jailor's grade will form a training ground, where officers can learn the duties of the Jailor, and be tested in their fitness to take the Jailor's work as vacancies occur. The pay may be fixed at Rs. 75-5-125, which, we may observe, is below that recently proposed for corresponding officers in the United Provinces, *viz.*, Rs. 80-5-150.

His duties.

49. In the district jails the Deputy Jailor should be required to perform the clerical duties of the jail, in addition to those which devolve upon him as the Jailor's executive assistant.

Clerical staff to be included within superior grade along with executive staff.

50. The jail clerical staff has usually been treated as separate from the executive, and recruited separately. Since both sets of officials perform more or less the same kind of duties, we do not think there is much object in maintaining the distinction. On the other hand, in a small service like this, it will be an advantage to have a single superior grade recruited and trained in the same manner, and available for both clerical and executive duties as occasion may demand, and to include them under the common designation of Assistant Jailors. An amalgamation on these lines has already been contemplated or carried out elsewhere, as in the United Provinces.

Qualifications and pay.

51. Only graduates of a University should ordinarily be selected, as otherwise they will not be eligible for promotion to the higher post of Deputy Jailor. The pay of an Assistant Jailor may be fixed at Rs. 45—5/2—70.

Vide Report of the Indian Jails Committee.

Lower grade of officials for purely clerical work.

52. It will still be necessary to have some officials with lower qualifications and on smaller pay to attend to such purely clerical work as copying and typing; these may be included in the Head Warders' grade, with a salary rising from Rs. 25 to Rs. 35 by annual increments of one rupee. The minimum educational qualification for inclusion in this grade should be the Matriculation or S. S. L. C.

Subordinate Medical Staff.

53. In every jail there is a subordinate medical staff, who manage the sick in hospital, and supervise the sanitation, the feeding arrangements, and the weighment and general health of the prisoners.

The staff must comprise at least one whole-time Sub-Assistant Surgeon, who may be given an allowance of Rs. 30 as compensation for loss of private practice. Where the average daily population exceeds 300, it may be necessary to have an additional Sub-Assistant Surgeon. The compounder may be allowed a salary of Rs. 5 in excess of the rate paid in the local hospital, as a set-off against the disagreeable features of jail service.

Relation to Superintendent and Jailor.

54. It is essential that the Sub-Assistant Surgeon, like all other subordinates in the jail, should (except in strictly professional matters) be subject to the authority of the Superintendent and the Jailor.

Separate recruitment of medical subordinates for jail duty, not desirable.

55. A proposal has recently been made in the United Provinces for the separate recruitment of medical subordinates exclusively for jail service. This is based on the ground that the Prisons Department will not otherwise have sufficient control over the appointments, transfers and discipline of the medical staff, and that jail duty is very unpopular with medical subordinates. There is, no doubt, some force in the reasons assigned. But we think that, on the whole, there are greater advantages in being able to draw from time to time upon the somewhat extensive personnel of the Medical Department for a fresh batch of medical men, than in resting content with the same set of men whose knowledge and experience will be confined to the narrow sphere of prison duty. The inconveniences referred to will be minimized by prescribing a fixed term of years for jail duty, during which the official selected will remain entirely under the disciplinary control of the Prisons Department, and draw an allowance as compensation for loss of private practice.

Selection and period of deputation.

56. As regards the actual selection we think that, as a rule, no Sub-Assistant Surgeon should be posted to jail

employ until he has completed at least two years' service. The deputation should be for a definite period of from three to five years, during which the official selected should not be liable to be withdrawn without the Inspector-General's consent. At the same time, no medical subordinate should ordinarily be liable to be called upon to serve a second term in the Prisons Department.

Individual attention to complaints of patients.

57. In view of occasional complaints made as to inadequate medical attention, it would be well if, instead of or in addition to the weekly parade of sick prisoners, the medical officer met each patient separately and ascertained the nature and genuineness of his complaint. Complaints may often be imaginary or trifling; but it will give the person concerned some satisfaction to feel that he has been patiently listened to.

Attention to female patients.

58. The arrangements necessary in the matter of proper medical attention to female prisoners, as well as the staff required for the female block of a prison, have been indicated in Section C of Chapter III.

Psychological examination of prisoners.

59. Having regard to the close connection between crime and mentality, and the increasing importance attached to a study of the psychological condition of criminals, it is desirable to arrange for the periodical examination of prisoners in jail by a qualified expert. If, as we have recommended, the new Central Prison for casual prisoners is built in the vicinity of the Mental Hospital, it should be possible for a member of the staff of the latter institution to discharge this duty on payment of an allowance. In the case of other jails, an expert on the staff of the Medical or Educational Department will have to be deputed. A full-time psychologist will not ordinarily be required unless the number of persons to be regularly examined in a jail exceeds a hundred a month.

Technical staff.

60. We would like to stress the importance of securing an adequate technical staff, competent to train the prisoners to earn a living after discharge.

Chief Instructor, qualifications and emoluments.

61. The Chief Industrial Instructor in the Central Jail should be a properly qualified man, who has received a thorough training in the special industries carried on in jail. He may preferably be an officer lent from the Industries Department, in which case he may be given an allowance in addition to his departmental salary. Otherwise he may be paid according to qualifications; a suitable time scale would be one of Rs. 100-5-150.

Instructors and maistris.

62. There should be under the Chief Instructor one trained instructor (or foreman) for each of the three main industries, on a salary of Rs. 35-1-50.

The better skilled prisoners will continue, as heretofore, to work as *maistris* under the paid instructors or foremen.

Store-keeper; his duties and pay.

63. The Store-keeper of the Industrial section should, in addition to being in charge of all raw materials and manufactured goods, also maintain the accounts of the section. He may be assisted by one or more accountants if the transactions are too heavy, and he will work under the general control of the Superintendent. His pay may be fixed at Rs. 50-2-80.

Drill Instructor.

64. There must be a drill instructor for training the executive staff. He may by preference be a retired military officer, but one not past his prime, and he must be capable of being employed in other ways when not engaged on drill duty. His salary will depend on qualifications and on the other work assigned to him.

SECTION D.

Watch and Ward.

Warders, backbone of prison service.

65. The warders are the backbone of the Prison service. It is the warders that have the most contact with the prisoners, and are thus in the best position to influence them inside the jail. Their duties, at the same time, are rigorous and unattractive, and their hours of duty, both by day and by night, are long and severe.

Nature of warder's duties.

66. A warder's life is necessarily to a great extent passed within the prison walls, and it is no more than the bare truth that he is but little less of a prisoner than the inmates whom it is his duty to guard.

"Owing to the limited area within which his duties are performed, he is at all times under the eye of some superior, and this brings with it a greater liability to be detected in irregularities and to be punished therefor, and imposes on him a much severer strain. These facts constitute a great handicap on the jail service, which is alone sufficient to place the Department at a disadvantage as compared with the Police. Unless, therefore, the terms offered to the jail warder are superior to those given to the constable, men of even equal quality with the recruits secured for the Police will not come forward." *

* Indian Jails Committee's Report.

67. As a matter of fact the salaries paid to jail warders in Mysore are much lower and their prospects much less attractive than those of the ordinary policemen. The sanctioned scale of pay is only Rs. 12, 13 and 14, besides a small house rent allowance, paid when quarters are not provided. Poor salaries and prospects.

68. It is no wonder that the warder's grade is as a rule filled with men of an indifferent stamp, the leavings of other services, uneducated, ill-trained, unreliable, and inclined to corruption, subservience and tyranny. Indifferent personnel.

69. We have no reason to doubt the large amount of evidence available as to the existence of bribery and corrupt practices among the subordinate prison staff. It is true that a similar state of things is not absent in other parts of India, but this is hardly a matter for complacency. Prevalence of corruption.

The testimony of a former Prison Superintendent, that most prison offences are committed with the help or connivance of the warder staff, is hardly an exaggeration. In fact, many prison irregularities can be directly traced to the corruption or inefficiency of the warders. They are largely responsible for the smuggling in of contraband articles and the taking out of unauthorized communications, though convict cooks and servers are often the channels through which such articles as tobacco, opium and ganja are distributed inside the jail.

It may not be possible, human nature being what it is, altogether to prevent the misuse of opportunities by small and needy men in authority ; but something may be done to minimize the promptings and temptations which inadequate means of subsistence often make inevitable.

70. The whole level of honesty and efficiency in the subordinate service needs to be raised. It is of vital importance that the men employed should be granted a salary which will secure a proper class of recruits, and will place them as far as practicable above temptation. The standard of education among warders should also be raised. They must be literate and of sufficiently good social position to command the respect of their charges. Importance of raising level of honesty and efficiency.

71. It is imperative from all points of view that the scale of pay granted to the warder establishment should be revised, and placed on a footing somewhat better than that given to the Police. Scale of pay should be revised.

In doing so, it will be advisable, in order to prevent undue stagnation in a small service, to fix a time scale,

which may rise from Rs. 15 to Rs. 25 by annual increments of one rupee.

Qualifications to be prescribed.

72. No person should hereafter be appointed as a Warder who has not passed at least the Middle School or Lower Secondary Examination in English, and does not possess a good conversational knowledge of Kannada and Hindustani. Other essential qualifications are robust health and a sound physique, and good moral character vouched for by reliable persons.

Head Warders' grade.

73. Warders on reaching Rs. 25 should, if they pass a qualifying test (based on a sound working knowledge of prison rules), be styled Head Warders, and put into a special grade on Rs. 25-1-35.

Selection grade of Chief Warders.

74. There should be a selection grade of Chief Warders on Rs. 40, with eight places in it, three for the Central Casual Prison, two for the Central Habitual Prison, and one for each District Jail. These places may be filled by senior Head Warders with educational qualifications not below the Matriculation or S. S. L. C. If they are graduates, and otherwise found suitable, they should be further eligible for promotion as Assistant Jailors.

Free quarters.

75. Instead of a house rent allowance, the warder staff should be provided with free quarters quite close to the jail, as otherwise it would be impossible to collect them together when needed, as during a general disturbance, mutiny or fire.

Strength of warder staff for the larger prisons.

76. The strength of the warder staff in the larger prisons must naturally correspond to that of the prison population. We are not aware of any definite proportion having been authoritatively laid down in this matter. Subject to variations to suit local circumstances, it will be convenient to take it as a working rule that there must be at least one warder for every ten prisoners up to 100, and one for every fifteen beyond that number.

In addition, there must be a reserve of ten per cent of the ordinary strength to meet cases of leave, sickness, emergencies, and extra duties such as guarding condemned prisoners, and camp jails for an excess of population.

The number of Head Warders (including Chief Warders) should ordinarily be one for every ten warders on the staff of each prison.

A similar ratio may be adopted in the case of the wardresses required for the female ward of a prison.

For sub-jails.

77. For a sub-jail the minimum staff required cannot be less than two warders (so that one may always be

present and have possession of the keys) and an experienced Head Warder. The services of some respectable woman should be engaged to perform the duties of female warder, when female prisoners are confined in the sub-jail.

Probation and training for warders.

78. Men appointed as warders for the first time should be on probation for six months prior to confirmation.

All warders should go through a course of training before being posted to a jail for duty. This course should include instruction in the provisions of the Jail Manual, the guarding of prisoners and buildings, drill, physical training, musketry, etc.

Training school.

79. There should be a training school for the subordinate Jail staff, like the Police Training School. Till such an institution is started, candidates recruited in Mysore should be sent to the training schools in some of the British Indian provinces.

Catechism of warder's duties.

80. There is good reason to think that the more or less common ignorance of prison rules on the part of the warder establishment leads to many prison offences being tolerated or connived at. It will be useful to place in the hands of all warders a detailed catechism in the vernacular, dealing in simple language with their duties and functions, the standard of behaviour expected of them, and the action to be taken in emergencies.

Employment of convicts as officers.

81. The Indian Jails Committee were insistent in their view that the extent to which convict officers had been employed in Indian prisons was excessive and should be reduced. Introduced originally as a system of reward and reformation for deserving prisoners, it had, according to them, degenerated in some parts of India into a mere means of effecting an economy in paid establishments.

System should be continued under restrictions and conditions.

82. While we agree that convict officers should be used to assist and supplement, not to replace, the paid staff, we think that the system obtaining in Mysore of utilizing the services of well-conducted prisoners as officers has worked well and should be continued under suitable restrictions and conditions. For one thing it encourages good behaviour and rewards faithful work. It is helpful in putting down disorder, and it does to some extent conduce to economy.

Guard duty outside barracks at night.

83. But the employment of convict warders outside the barracks for guarding prisoners at night is open to objection, and should be discontinued. No convict officer should in fact be outside his barrack at night. Paid

warders should be appointed for night patrol work, even if this should entail the entertainment of an additional staff, which may not extend to more than one paid warder for every barrack of about twenty prisoners.

Independent charge of gangs.

84. No convict officer should have independent charge of any file, gang, or other body of prisoners, or should have independent power to issue orders to prisoners, but there should always be a paid officer in superior charge, under whose control and orders the convict officer should work.

Irregular employments of convict officials.

85. Convict officials drawn from the class of casual offenders should not be employed in a jail or part of a jail reserved for habitual offenders. On the other hand, no habitual should be employed as a night-watchman in any non-habitual barrack. Occasions for such irregular employments will of course cease to exist with the establishment of separate prisons for casuals and habituals.

Position of convict officers in relation to ordinary convicts.

86. Convict officers should have separate quarters cut off from the other yards in the prison, so that undue familiarity with the ordinary convicts may be avoided and discipline better maintained.

A sense of dignity and self respect should be maintained among convict officers. Convict officers should not, therefore, be made to wear fetters or ankle-rings.

Should be paid higher gratuity.

87. Inasmuch as, owing to the nature of their duties, they are denied the chances which other prisoners have of being employed in the worksheds and earning extra money and remission, convict officers should be paid a higher rate of gratuity than at present.

Women should be eligible to grade of convict warders.

88. Women convicts are not now eligible for promotion beyond the grade of convict overseer. There is no reason why in really suitable cases they may not rise to the grade of convict warders.

Police should not be employed in sub-jails except in emergency.

89. The Taluk lock-ups or sub-jails, where under-trial prisoners are kept, are now guarded by the Police, which is not a satisfactory arrangement. Where there is an adequate warder staff, it should not be necessary to employ the police for guarding or any other purpose, except as an emergency measure during a serious outbreak in prison when the regular warder guard may require reinforcement.

This is not merely to avoid all suspicion and remove all opportunity of coercion or undue influence on the part of the Police, especially in regard to under-trial prisoners. It is also because the policemen employed can have had

no special training for jail duties, and for disciplinary purposes will remain subordinate to the District Superintendent of Police, instead of to a superior officer of the Prisons Department. Under-trials may however be escorted to and from the Court, under its warrant, by policemen totally unconnected with the particular case.

SECTION E.

MISCELLANEOUS.

Work of prison staffs should be limited to eight hours.

90. There is reason to think that prison staffs as a whole are over-worked, and that the hours of attendance are too long. No official, whether in the executive or in the clerical service, should ordinarily be required to work for more than eight hours a day.

The Indian Jails Committee urged the adoption of a "a fixed principle" that a warder should not be required to do more than ten hours' work a day, and that he should be allowed at least four nights in bed each week. Ten hours' work should be the maximum; ordinarily we think a warder's duty should be limited to eight hours a day. The slight addition to staff entailed will be more than repaid by increased efficiency and contentment.

Recognition of good service.

91. There is at present insufficient provision for the recognition of meritorious service by members of the prison staff in connection with the prevention or suppression of riots, or other serious disorders or outbreaks, the extinguishing of fire, and other emergencies. We think the Superintendents of Jails should be empowered to reward specially good service by money gifts, medals and good service entries, according to circumstances, each such case being regularly reported to the head of the Department. A sum of Rs. 200 in the case of a Central Jail and Rs. 50 in the case of a District Jail should be allotted every year for this purpose.

Free quarters near prison.

92. It is very necessary that quarters suitable for family life should be provided for members of the staff in close proximity to the prison. Otherwise, they will often have to traverse long distances two or three times a day, to the waste of their time and some diminution of their freshness and energy, not to speak of the practical difficulties in getting the officials all together at times of disturbances and other serious contingencies.

The fact that many of them live far away from the premises of the prison, beyond the supervision and control of the superior officers, is not only a practical inconvenience, but no small drawback to discipline and efficiency.

Medical officers, in particular, should be provided with quarters close to the jail, so that their services may be immediately available in cases of sudden illness or other emergencies.

Facilities for recreation.

93. Besides providing quarters for the Prison staff, it will also be very desirable to give them adequate facilities for recreation and social converse, as a break from the monotony of their duties and the depressing atmosphere in which these duties have to be performed. The facilities to be provided may take the form of a club-room supplied with papers and with materials for indoor games and of a playground for outdoor games. All officials should be required to contribute a small monthly subscription, ranging from a rupee to four annas according to salary.

CHAPTER XV.

Visitation of Prisons.

Purpose of visitation.

1. The plan of appointing persons, official and non-official, to serve as visitors to jails is a very valuable part of the system of prison administration. It insures the existence of a body of free and unbiassed observers, whose visits serve as a guarantee to the Government and to the public that the rules are duly observed, and that abuses, if they were to spring up, would be speedily brought to light.

Present arrangements unsatisfactory.

2. The present arrangements in the State in this respect cannot, however, be said to fulfil their purpose adequately. Indeed, it is not too much to say that at present there is nothing that can properly be described as jail visitation. A number of official and non-official persons are periodically appointed by Government as visitors, but few of them think of paying more than random and perfunctory calls. In some institutions which we inspected, there were either no records of any visits having been paid from year's end to year's end, or merely a sentence or two complimenting the prison officers on the neatness of the premises and the cheerful and healthy appearance of the prisoners.

Reasons for failure.

3. There are several reasons why the system has not worked as it should: first, the undiscriminating selection of non-official visitors; secondly, the insufficient interest displayed by visitors, both official and non-official; thirdly, the want of co-ordination of the work of the visitors as a whole, in the absence of a composite body with a defined constitution and recognized powers and duties; and, fourthly, to some extent, the jealousy and even dislike with which the interference of non-official visitors is apt to be viewed by prison authorities.

Considerations governing appointment of non-official visitors.

4. No person should, in our opinion, be appointed a non-official visitor unless he is known or believed to have some definite aptitude or qualification for the position, such as an interest in prison administration and in the welfare of prisoners, an acquaintance with the problems of crime and punishment in their practical aspects, an ability and willingness to assist in finding work for prisoners on release, and so on.

From this point of view, members of executive committees of the Discharged Prisoners' Aid Society would be particularly useful.

Selection should be made solely on a consideration of personal fitness, and not on grounds of social position, wealth or influence, nor with a view to party or community representation.

The good type of non-official visitor is he who can co-operate and work harmoniously with the prison officials. One who is incapable of doing so, and, on the contrary, is apt, even if unintentionally, to sow seeds of discontent and indiscipline among the prisoners, is best kept out.

Number of visitors.

5. As regards official members, the appointments must necessarily be in virtue of their office. And in order that all departments concerned should be properly represented, the total number must be fairly large.

In the case of the non-official visitors, their number must have some reference to the class and strength of each jail. Speaking generally, it should be sufficient to enable them to maintain contact with all the prisoners. The number of gentlemen visitors may, we think, be fixed at ten for the Central Casual Jail, and eight for the Central Habitual Jail. Five may suffice for each of the three District Jails.

The inclusion of a few ladies will be extremely desirable where there are female prisoners, their visits of inspection being confined to the female side of the prison.

There may be three lady visitors for each of the two Central Prisons, and two for each District Jail.

Term of appointment of non-official visitors.

6. The appointments of non-official visitors should be for a fixed term of three years. But a visitor who has shown interest in his work and has proved his usefulness in the past ought to be re-appointed so long as he is fit and willing to serve. On the other hand, one who is usually slack in attendance or has too little leisure to spare for the work should be replaced by a more energetic person.

Necessity for regularly constituted Board.

7. The Rules in force in Mysore provide only for the appointment of individual visitors, and do not contemplate the idea of the visitors, official and non-official, functioning together as a body on a regularly constituted Board. We think action in this latter direction is distinctly desirable in view of the importance of the

functions to be performed, their proper co-ordination, and the need for a certain continuity of policy.

Existing Rules to be replaced.

8. The existing Rules (numbered 14 to 21 in Chapter III of the Mysore Jail Manual) should be replaced by a fresh set of Rules providing for the formation of a Board of Visitors for each prison, defining its composition, regulating its procedure, prescribing the functions of the Board and of individual visitors, and indicating in general terms the action to be taken on their remarks.

Draft of fresh Rules.

9. With a view to facilitate the necessary action, we have incorporated the needful provisions in the subjoined draft, modelled on the latest rules in force in British India. These provisions will speak for themselves, and require little comment.

"1. There shall be a Board of Visitors for each prison.

The Board shall consist of :—

(*a*) *Ex-officio* visitors.
(*b*) Other visitors appointed under the rules hereinafter appearing.

The District Magistrate shall be Chairman of the Board.

"2. The following officers, and such other officers as Government may from time to time appoint in this behalf, shall be *ex-officio* visitors of every prison within the respective areas under their official charge or within their jurisdiction :—

(1) District Magistrates.
(2) Sub-Divisional and City Magistrates.
(3) Sessions Judges, including Additional and Assistant Sessions Judges.
(4) Treasury Assistant Commissioners.
(5) The Inspector-General of Police.
(6) District Superintendents of Police.
(7) The Director of Public Instruction.
(8) The Deputy Directors of Public Instruction.
(9) The District Educational Officers.
(10) The Senior Surgeon.
(11) District Medical Officers, who are not Superintendents or Medical Officers of Prisons.
(12) The Director of Public Health.
(13) Health Officers.
(14) Superintending Engineers.

(15) Executive Engineers.

(16) The Director of Industries and Commerce.

"3. (1) There shall ordinarily be ten non-official gentlemen visitors for the Central Casual Prison and eight for the Central Habitual Prison, and five for each of the three District Prisons.

"(2) The ten non-official gentlemen visitors for the Central Casual Prison shall be :—

(*a*) The President of the Municipal Council of the City of Bangalore.

(*b*) Three members of the Mysore Legislative Council resident in the Bangalore City.

(*c*) Six other gentlemen who, in the opinion of Government, are interested in the administration of prisons and are likely to take interest in prisoners and their welfare both while they are in prison and after their release.

"(3) The eight non-official gentlemen visitors for the Central Habitual Prison shall be:—

(*a*) The President of the headquarter Municipality of the District in which the prison is situated, or, if he be an officer of Government, then the non-official Vice-President.

(*b*) The President of the District Board of such District.

(*c*) Two members of the Mysore Legislative Council resident in such District, and

(*d*) Four other gentlemen who. in the opinion of Government, are interested in the administration of prisons and are likely to take interest in the prisoners and their welfare both while they are in prison and after their release.

"(4) The five non-official gentlemen visitors of each of the three District Prisons at Bangalore, Mysore and Shimoga shall be :—

(*a*) Two members of the Mysore Legislative Council resident in the District in which the prison is situated, and

(*b*) Three other gentlemen who, in the opinion of the Government, are interested in the administration of prisons and are likely to take interest in the prisoners and their welfare both while they are in prison and after their release.

"(5) There shall be three lady visitors for each of the two Central Prisons, and two for each of the three District Prisons. They shall be selected by Government from amongst ladies who are interested in the administration of prisons and are likely to take interest in the prisoners and their welfare both while they are in prison and after their release.

"(6) The appointments of non-official visitors shall be made by Government.

"(7) The appointments of non-official visitors other than members of the Mysore Legislative Council shall be made for a term of three years. The appointments of members of the Legislative Council shall be made annually from amongst the members of the said Council resident in the City or District in which the prison is situated. The appointments shall be made by turns to be fixed by such members themselves, failing which the District Magistrate concerned shall fix such turns by drawing lots.

"(8) All the appointments made under this rule shall be notified in the *Mysore Gazette.*

"(9) Non-official visitors of prisons shall not be entitled to any travelling, daily or conveyance allowances for their visits to prisons.

"4. The Chairman of the Board of Visitors of each prison shall arrange for a weekly visit to the prison by one of the members of the Board, and shall give timely notice to the member whose turn it is to visit the prison in the week. Such member may visit the prison on any day of the week which is convenient to him.

The Chairman shall also arrange for the periodical inspection of the female wards by lady visitors in addition to that made at the time of weekly visits by other members of the Board.

"5. The Chairman shall convene a quarterly meeting of the whole Board in the months of January, April, July and October to carry out the duties of inspection specified in rule 6.

"6. All visitors shall so far as may be possible—

(*a*) inspect the barracks, cells, wards, worksheds and other buildings of the prison generally;

(*b*) ascertain—

(1) whether considerations of health, cleanliness and security are attended to,

(2) whether proper management and discipline are maintained in every respect,

(3) whether any person is illegally detained or is detained for an undue length of time in the prison while awaiting trial;

(*c*) examine—

(1) the registers of convicted and under-trial prisoners;

(2) the punishment book;

(3) other prison registers;

(4) the accounts of the prison;

(*d*) hear and attend to all representations and petitions made by or on behalf of prisoners;

(*e*) direct, if deemed advisable, that any such representations or petitions be forwarded to Government;

(*f*) enter in a book which shall be kept in every prison, called the Visitors' Book—

(1) the date and hour of their visit,
(2) any remarks as to the result of their inspection which they may deem worthy of record;

(*g*) call for and inspect any book or jail record, unless the Superintendent, for reasons to be recorded in writing, refuses to allow such inspection on the ground that it is not desirable in the public interest.

NOTE.—Any visitor may see and question any prisoner out of hearing but not out of sight of a jail officer.

"No prisoner shall be punished for any statement or complaint made to a visitor, except with the concurrence of such visitor.

"7. Lady visitors shall only visit the female wards of the prison when making their inspection.

"8. (1) In the event of any grave irregularity or of any important matter requiring immediate attention, which is brought to notice by any visitor, or of remarks made by a visitor which require special attention, the Superintendent of the prison shall at once forward a copy of the visitor's remarks recorded in the Visitors' Book to the Inspector-General of Prisons.

"(2) A copy of every other entry made in the Visitors' Book, whether at a quarterly or other visit, by any visitor shall, on the first day of the following month, be forwarded by the Superintendent of the prison to the Inspector-General of Prisons, with such remarks as the Superintendent may desire to offer in explanation or otherwise.

"(3) The Inspector-General of Prisons shall pass such orders as he thinks necessary on the remarks made by visitors in the Visitors' Book, and shall send a copy of the same to the visitors concerned."

Attitude of prison officers.

10. We cannot shut our eyes to the fact that prison officers here as elsewhere are apt to look upon visitors as busybodies and to resent their visits and inquiries as annoying interferences; but this is due to a misunderstanding of their province and of their own position in relation to them. It is well that they should realize that no officer, however high or cultured, can claim entire freedom to exercise unrestricted authority over those who are not in a position to question such authority.

On the other hand, the participation of visitors, official and non-official, ought to be of much value to the authorities of the jail, for it will supply the best available evidence that no ascertainable irregularity exists in it, and that every prisoner has had an opportunity of preferring any complaint he may wish to make regarding his treatment. Such visits should, therefore, be welcomed and encouraged.

Importance of active functioning of visitors.

11. The interests of sound administration require that there should be actively functioning a compact and carefully chosen body of visitors, responsible to Government and reflective of sound public opinion, which, without itself interfering in any way with the day-to-day administration, will see that the business of the prison is smoothly and efficiently carried on, that the staff from the Superintendent downwards understand and discharge properly their prescribed duties, that the treatment laid down in the Rules is strictly, discriminatingly and, as far as possible, sympathetically carried out in all cases, and that prisoners, whether collectively or individually, have no legitimate grievances or complaints.

Some impracticable proposals.

12. We cannot commend a proposal advocated in more than one of the written opinions received, to the effect that the entire management of a jail should be left in the hands of the Board of Visitors, with a non-official majority, the Superintendent acting merely as the Secretary of the Board. Such a proposal altogether overlooks the place and purpose of Boards of Visitors in the administrative system, which is inspection, advice and report, and not interference in the management. The democratic principle cannot safely be applied to the governance of a prison-house. A scheme of this nature is only one degree less fantastic than another which has been seriously put before us, that prisons should be run co-operatively with accredited representatives of the prisoners on the management. We are told that some such arrangement has been tried in Soviet Russia, it is not known for certain with what result. But we doubt whether the conditions obtaining in this country are at all adapted for experiments of this radical nature.

True function of Board.

13. The Board of Visitors, we must repeat, is expected to be a living link between the Government and the prison authority, concerned not with administration but solely with inspection, recommendations and reports.

At the same time it will be well for visitors individually and as a Board to realize that their true function is not one of mere criticism or the inviting of complaints against the prison authorities, but cordial co-operation with them in getting defects remedied and in bringing to notice the legitimate grievances of prisoners, with a view to their being investigated and rectified by the authorities themselves in the first instance. They must not set themselves up as a parallel or supervising authority, which they are not intended to be. They must do everything on their part to create an atmosphere of cordiality and contentment.

And of individual visitors.

14. The functions of individual visitors must naturally be more circumscribed than those of the Board. They are confined mainly to interviewing prisoners and ascertaining their wants and grievances, with a view to having the same met by the prison officers themselves where possible, and in other cases placing them before the Board for its consideration.

Complaints to visitors.

15. It is important that no obstacles should be placed in the way of prisoners making any representations they choose, and that no punitive action should ordinarily be taken without the concurrence of the visitors, even when the complaints are found to be frivolous or unfounded. Much must be forgiven to men in their unfortunate position, leading a cramped life of restraint and deprivation, with few interests and no variety of experience, a life in which minor discomforts are apt to loom as serious grievances, and liable besides to petty annoyances and deprivations and even persecutions from unscrupulous members of the subordinate staff.

Interviews with prisoners.

16. It is very necessary that the interviews should not be too hurried or superficial, and that sufficient time should be given to all prisoners, particularly the less experienced men, to collect their thoughts and put forward freely and clearly their representations and complaints.

If a visitor thinks it preferable, he should be at liberty to see a prisoner and hear his grievance unaccompanied by, but (for his own safety) not out of sight of, a prison official.

Facilities to visitors.

17. Visitors should be given every facility to inspect the barracks, the cells, wards, work-sheds and other buildings, the kitchen, the food, the store, the vessels, the clothing and bedding in stock and in use, and the sanitary

and other arrangements of the prison. They should be encouraged to make suggestions and recommendations, which should be sympathetically considered by the prison administration.

Information in annual reports.

18. The annual report of each prison should contain detailed information as to visits made and notes and suggestions recorded by the visitors, and as to the manner of their disposal. A brief summary and general review of these reports should be included in the departmental report to be submitted to Government.

CHAPTER XVI.

Trends in Penal Reform.

Prisons part of penal system.

1. Prisons are part of the penal system of a country, and must be considered in connection with it. The prison can only deal with those who are committed to it by the processes of law. "Experience shows that it is futile to tinker with the prison system, while leaving the general penal system untouched. It is not too much to say that attempts at prison reform are worse than useless without coincident penal reform." *

Prison reform, its scope.

2. Prison reform is indeed intimately connected with the reform of the penal law. Its scope is no longer confined to questions of the construction, management and staffing of prisons, the association or separation of prisoners, and their labour and discipline. It has become enlarged, on the one hand, to include the reform of the prisoner himself by improved methods of influence and treatment while in prison, and on the other, to cover topics of such far-reaching importance as "the prevention of the gravitation of potential offenders towards crime, and the adjustment of punishment not to some abstract standard of criminality, but to the merits of each individual case." †

Crime, what it is.

3. Crime is not now looked upon as being synonymous with immorality or sin, even though much crime does offend against morality, and many sins are punishable by the law. The essence of crime is its anti-social character; but an anti-social act only becomes a crime when the law has declared it to be such. Crime is, simply, anti-social conduct to which the law has assigned a penalty.

Factors in causation of crime.

4. Few people in these days take seriously the once fashionable theory that there is a definite criminal type, consisting of persons differentiated from normal beings by anomalies of physical structure and mental peculiarities. Patient investigation has established that the physical and mental constitution of both law-breaking and law-abiding persons of the same age, class and level of intelligence, is identical. But it has shown, at the same time, that morbid conditions (in the shape of defects or

* Hamblin Smith, "Prisons."
† Cp. Ruggles-Brise, "The English Prison System."

abnormalities in bodily, mental or emotional constitution) are often associated with criminal tendencies. This view is itself in turn giving place to a wider conception, which includes various factors such as individual peculiarities, hereditary predispositions, environmental conditions, and even the changing moral outlook of society, and the absence or diffusion of culture, among the causes of crime.

Nature and nurture.

5. The distinctive characteristics of each man, together with the qualities inherited by him, may be said to constitute his nature. But stronger than nature, in many if not most cases, is nurture, with its powerful influence for good or evil in moulding the personality.

6. An illustration of this is afforded by the fact that, according to investigations made among criminals in jail, the majority are found to have started their career of crime as the result, not so much of defects of heredity, as of bad nurture.*

Environment.

7. While faulty upbringing and the lack of parental care and affection in the early years are potent factors, environment plays a not less important part in the causation of crime. A man's position in society, his home conditions, his work and earnings, his companions and moral surroundings, his facilities for recreation, and other circumstances like these, all have an influence which, cumulatively, may be quite decisive.

Multiple causes.

8. Delinquency is as a rule not due to any one dominant cause, but is the result of several factors upsetting the normal balance of the individual. Ignorance, in particular, is a fertile source. So likewise are poverty, lack of opportunity, and mental instability. Much crime as has been said, is "committed by people who can find in our society no outlet for capacities which, under other circumstances, might be regarded as virtues".†

Lack of self-control.

9. With most persons there is a power of self-control which holds them back from the impulse to crime, even where desire is strong and opportunity is present. It is this capacity for resistance which is lacking in most criminals, however strong-willed they may be in other respects, and which must be created or strengthened if they are to be reformed.

Physical debility or deformity.

10. The power of resistance to temptation is often undermined by ill-health; and physical debility or deformity may predispose a person to crime. But in this

Vide Ruggles-Brise, "The English Prison System".

† Hobhouse and Brockway, "English Prisons To-day".

country an easier and more likely alternative for many of the disabled lies in the professional beggar's appeal to the householder's charity.

Poverty.

11. The fact that the majority of crimes committed are crimes of acquisitiveness (thefts, burglaries and the like) suggests that crime is very largely economic in origin. Social conditions being what they are, the pressure of destitution and hunger drives many people to a career of crime. So poverty cannot be omitted from a list of possible causes; but it would be a great injustice to the poor to suppose that poverty necessarily leads to crime. If most of those who come before the criminal courts are poor people, it is equally true that the large majority who do not come before them are likewise poor people, who remain in the path of rectitude while struggling bravely with adversity.

Deliberate pursuit of crime.

12. Some offenders there are whose predatory instincts lead them to the deliberate pursuit of crime as their primary occupation. These are a specially dangerous type of criminals, even if numerically small; and it is only possible to deal with them effectively by rigorous and systematic methods of prevention and segregation.

Commonest crimes.

13. The commonest crimes in India are theft, house-breaking, house-trespass and other offences against property. Drunkenness and prostitution, which are answerable for a great many offences in England, and account for more than one-half of the commitments of females to prison, are not of much consequence from the point of view of crime and prisons in this country, though socially it may be otherwise.

Prevention of crime.

14. For most ills prevention is unquestionably better than cure. Nowhere is this better established than in the sphere of crime.

Heritable and latent tendencies.

15. To prevent crime we must attack the causes of crime. In so far as crime is dependent on heredity, much may be done to check it, if not through positive improvement of the stock, at least by measures to prevent the unhindered propagation of debased strains and the transmission from generation to generation of the seeds of imbecility and incurable disease. Apart from systematic measures of this kind, which are already being enforced in various countries, it is very necessary to prevent potential delinquents from blossoming into actual criminals, by discovering and dealing with latent tendencies to insanity and criminality at a sufficiently early stage.

Standard of life.

16. Since crime springs largely from poverty and ignorance, the remedies for these are also among the most important remedies for the former. The environments from which vice and misery spring have to be reconstructed by raising the standard of life among the masses. The common people must be enabled to earn a decent subsistence, first, through being properly trained for a livelihood, and then by being given adequate facilities for obtaining employment.

Education.

17. Ignorance and the resulting tendencies to anti-social behaviour can only be countered by a system of universal education, aimed not merely at developing the intelligence, but also at elevating the moral tone and improving physical stamina and health.

The systematic training of the next generation to become good and capable citizens must be recognized, in practical action as it already is in principle, as a duty incumbent on the State.

The extreme importance of education and training in the plastic years of youth is illustrated by the fact (previously adverted to) that the period between sixteen and twenty-one years is that at which young persons are found to be most liable to be led away into crime. Scientific investigation carried out among prisoners in England has shown that more than one-half of all those who afterwards become habitual offenders had their first conviction between the ages of fifteen and twenty.

Punishment of the criminal.

18. Where society finds it impossible to prevent crime, it is confronted with the necessity for dealing with the author of the crime. Punishment, in a wide sense, is the action that has to be taken against a wrong-doer in consequence of his wrong-doing.

Retribution.

19. Modern society does not countenance the primitive custom of private revenge by the injured party or his representatives against the person who has caused the injury. For the idea of revenge there has been substituted the idea of retribution enforced by the community as a whole through its judges. Retribution has itself varying implications. It may extend to the infliction of such pain and suffering on the offender as is thought commensurate with that which he has caused to his victim. It may insist on appropriate restitution for the loss and injury caused. Or it may not go beyond some act or gesture amounting to a vindication of the law against the transgressor. To this last extent there must always be an

element of retribution in any action taken by the State; for no Government which means to be stable can permit its laws to be broken with impunity. Compensation for injury assessed on an equitable basis ought to be an essential element in punitive action; if this could always be enforced, it might by itself go far towards meeting the requirements of justice in the particular instance.

Suffering.

20. There remains the class of cases, tending to become fewer with the advance of enlightenment, as to which it is considered that guilt must be expiated by physical suffering, through such penalties as death and the use of the lash. These punishments are supposed to be particularly appropriate to the nature of the crime, irrespective of their effect on the criminal himself or of any increased security they might be thought to afford to the community. With these exceptions, however, direct physical injury has been discarded from the Criminal Code. Modern methods of punishment take the form of deprivation of liberty and the denial of intellectual, emotional and spiritual satisfactions.

Deterrence.

21. The idea of retribution is itself giving way (but not altogether) to the idea of deterrence. The object of punishment, it is held, should be in the main to prevent the person who has committed a crime from repeating the act or omission, and likewise to prevent other members of the community from committing a similar crime.

Effect of punishment on offender.

22. But it is far from certain that this object is attained in the generality of cases. As has been pointed out, "Prevention from repeating an offence can only be guaranteed by the death penalty or by imprisonment for life. Such punishments, however, are practically reserved for murder, which is of all crimes the least likely to be repeated."*

The ordinary punishment is imprisonment for a limited term; and this, so far as the prisoner himself is concerned, has in most cases no deterrent effect but the contrary. "The sense of fear and dismay, often present at first, passes into bravado, depression, callousness, or despair. On release after a first imprisonment, the offender, in spite of the efforts of societies to assist him, finds it hard to obtain work because he is regarded as disgraced, and harder still to do it properly if he obtains it, because he is weakened in habit and strength of will by what he

* Hobhouse and Brockway, "English Prisons To-day."

has undergone. These effects are increased with every new conviction. The figures of recidivism show that after a certain number of convictions, a prisoner is almost certain to return to prison."*

The progressive weakening of the deterrent effect of imprisonment is, in fact, one of the strongest reasons for delaying recourse to it.

Much crime, as we have seen, is due to feeble-mindedness and other similar defects, and much to poverty and its consequences. Imprisonment cannot be really effective in such cases. It merely makes it more difficult than before for the offender to live without recourse to crime.

Effect of punishment on other persons.

23. As regards the effect of punishment on persons other than the actual offender, this is a matter about which it is not possible to speak with certainty or confidence. It may be assumed that a majority of the people in a civilized community are normally law-abiding, and are likely of their own accord, that is, even in the absence of extraneous deterrents, to abstain from anti-social acts. "It is conscience, and not the fear of punishment, that makes civilized life possible" (Bernard Shaw). But it cannot be gainsaid that there must be a fairly large number whom the fear of punishment does operate to restrain from open or deliberate acts of crime. Even here it is probably not so much the terror of prison life that deters, as the loss of liberty and self-respect, the shame, hardship and social disgrace attendant on arrest, public trial and conviction, enforced separation from family and friends, and anxiety for the fate of dependants. On the other hand, there are certain crimes such as some crimes of sudden passion, or those due to mental defect, which cannot be affected by the fear of punishment. The fact remains that much crime still persists in society in spite of the many and often severe penalties annexed to the infraction of the laws.

Certainty of punishment more effective than severity.

24. The reason why punishment is not more uniformly deterrent in its effect lies in the fact that in practice detection and conviction do not always follow—or follow closely enough—upon the commission of crime. There is, besides, a limit to the deterrent effect of increasing severity. General experience amply supports the conclusion that the certainty of punishment is far more effective

*Hobhouse and Brockway, "English Prisons To-day."

as a deterrent than the mere severity of it. The potential criminal will abstain from crime so long as he knows that he cannot avoid punishment if he commits an offence. It is this certainty that is to a large extent lacking. An efficient and well-organized police and the swift and certain administration of justice are " first-line weapons " in the prevention of crime.

Protection of society requires offender's regeneration.

25. But the protection of society from anti-social acts cannot rest solely on a system of deterrent punishments. Protection, if it is to be effective, requires also that the offender, unless he can be put away once for all or kept in segregation all his life, should be morally regenerated and turned into a good citizen like the rest of the law-abiding community.

Cruelty and fear fail to reform.

26. The school of thought which considered that the best way of combating crime was to make punishment so dreadful as to frighten people into good behaviour, has become discredited by the increasingly patent fact that unprofitable and cruel punishment fails to correct or prevent. Another school is becoming more and more dominant which, while maintaining the character of the penal system as a deterrent, would fashion it at the same time into a mode of treatment serving as far as is possible to reform and rehabilitate the offender. A wrong-doer can only be considered as reformed if he will abstain from crime, not from fear of the possibility of punishment, but because he has come to feel that it is wrong to commit it.

Punishment must fit the criminal, not only the crime.

27. Whereas the older school was content to make the punishment fit the crime, without paying much attention to the personality of the criminal, the later school tries to adjust the treatment to the individual needs of the offender, and so to make the punishment fit the criminal.

28. Punishment must no doubt have regard to the nature of the crime, but cannot be solely or even mainly determined by it. There are various other important circumstances to be considered—such as the age, sex and mental condition of the offender, the existence of mitigating circumstances, the direct and indirect consequences flowing from the act, and so on.

Individualization of punishment.

29. Penal science is moving in the direction of the individualization of punishment as a reaction against its mechanical imposition. This aim is also reinforced by the modern doctrine of varying degrees of moral and of legal responsibility, as in the case of children and mental defectives.

30. Civilized systems of jurisprudence recognize that the capacity for intelligent discrimination in the young is not sufficiently developed till after a certain stage of physical growth. Capacity for discrimination in the young.

Under the Indian Penal Code, which has been in operation in this country for over three quarters of a century, nothing is an offence which is done by a child under seven years of age, or by a child above seven and under twelve years who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on the particular occasion. Under the Indian Penal Code.

The age limits are placed higher in other countries. Thus in Germany children under fourteen are entirely exempted from any criminal responsibility, and young persons between fourteen and eighteen are not punishable if at the time of the offence they were unable, owing to insufficient intellectual or moral development, to understand the unlawfulness of their act, or to act in accordance with such understanding. In other countries.

The minimum age of criminal responsibility is fourteen in England and in Italy.

In the United States and in South Africa, children between seven and fourteen are presumed *prima facie* to be incapable of committing an offence unless the contrary is proved, while those between fourteen and eighteen are presumed to be capable unless rebutted.

31. Enlightened opinion at the present day tends strongly to support the view that no criminal responsibility whatsoever ought to be attached to children under fourteen years. Age limits should be altered.

If a change from seven to fourteen years be considered too radical to be made at once, then at least the limit of absolute immunity under the Penal Code should be raised from seven to twelve years.

We would urge, at the same time, that, in the case of children over twelve and under fifteen, culpability should not attach to them unless the factum of maturity of understanding is established by the prosecution.

32. Independently of the question of legal responsibility, and speaking from the point of view of the individualization of treatment, we would reiterate the necessity, in all cases of alleged offences by young persons, Expert examination

* Hobhouse and Brockway, "English Prisons To-day."

for making an expert examination of their physical health and mental condition and development, before the trial begins, and certainly before it is over.

General presumption as to knowledge of law.

33. Apart from the case of children and mental defectives, all persons generally are presumed, irrespective of proof to the contrary, to be acquainted with the law, and to be capable of behaving in a manner agreeable to its commands. Such a presumption, though it may not conform to ordinary experience, is necessitated by reasons of social security against would-be infractors. Nor can the law itself lay down different degrees of severity in dealing with offenders according as they are accidental offenders, or offenders from impulse, or persons who have taken to crime as a means of livelihood.

Discretion to court.

34. What the law does is to prescribe a maximum penalty for each offence, leaving to the discretion of the Court how far the punishment actually awarded in each case should approach to or recede from this maximum limit. The discretion is enormously wide, and the character and severity of a sentence depend to a large degree upon the temperaments and idiosyncracies of individual judges and magistrates.

Matters within court's knowledge.

35. The Court as a rule has regard, in fixing the punishment, to the nature of the crime and its attendant circumstances, including the degree of deliberation used and the presence or absence of provocation. But beyond the facts concerning the offence elicited during the trial, and reports as to previous convictions if any, the Court knows little about the offender himself. It has usually only the most meagre information about his past history and antecedents, his real character and ruling motives, his physical and mental condition. It is not usually in a favourable position to forecast the probable effect of the proposed sentence on the offender's future attitude and manner of life.

This is apart from the fact that psychology, the science of human behaviour, does not form part of a legal education, and that it is doubtful if the large majority of judges and magistrates possess the necessary training or experience to qualify them to prescribe the best treatment.

Effect of same punishment on different individuals.

36. The length of a sentence may be a measure of the gravity of the offence in the eye of the judge, but can be no indication of the probable effect of the punishment upon the prisoner himself. The same punishment must mean something quite different to different persons,

according to their differences in temperament, mental and moral calibre, education, and previous social circumstances and training.

Prisoners are often sent to prison who do not stand in need of reformative treatment, or are merely accidental offenders, who have yielded to sudden temptation or impulse and are neither more nor less likely to offend again if let off without sentence or with only an admonition. Others there are of whom it may be safe to predict, after an experience of years, that they are not amenable to the reformative influences of a prison. In the case of yet others, the length of the sentence as fixed by the Court is not calculated to promote their reformation, either because it is too short to allow of the prolonged training required, or so long as to neutralize the benefit of a more moderate period.*

Imprisonment by itself not reformative.

37. It is sometimes thought that imprisonment by itself is reformative in effect. But this is an erroneous view not supported by experience or sound reason.

The authors of "English Prisons To-Day" put the position succinctly when they point out that the ordinary regime of prison has no reformative influence upon a large proportion of the prison population—none upon the feeble-minded, or the inebriate, or the tramp, the short sentence prisoner in general, the young person up to the age of twenty-one, or the professional or habitual of any age, nor presumably upon the political offender, the conscientious objector or the revolutionary.

Seldom beneficial.

38. It is not too much to say, with the Indian Jails Committee, that imprisonment is seldom beneficial in its effect on the individual, and that the longer the sentence the less likely it is to be of benefit. A single experience of prison is sufficient to rob it of all its deterrence, which is one main reason why a high proportion of offenders come back again and again to prison. Familiarity, in this case, does breed contempt. The confirmed criminal is content with the satisfactions he can get in prison—the free food, clothing and shelter, the congenial association and conversation,—and has inured himself to its hardships and limitations.

Prison conditions.

39. On the other hand, the normal conditions of existence in prison—the loss of self-respect, the interference with initiative, the lack of opportunities for self-expression,

*L. W. Fox, "The Modern English Prison."

the rigid and humiliating discipline, the monotonous labour, the depressing and criminalistic associations and suggestions,—all these, so far from strengthening, tend to impair and undermine, the mental and moral constitution of almost every person coming under their influence. They diminish his powers of resistance against temptation, and render him less and less fitted to take part in the outside struggle for life.

Current conception of prison.

40. The prison has been regarded mainly as an administrative necessity, an inevitable adjunct to the maintenance of law and order. Prison administration has also been more or less predominantly punitive in character. Attention has been directed almost entirely to the material well-being of the prisoner, and not sufficiently to the possibility of his rehabilitation.

Its wastefulness.

Even from the material point of view, such a policy is decidedly wasteful. It involves a serious economic loss to the State, not only in the direct expenditure that has to be incurred on account of the detention and housing, and the maintenance and care, of a large prison population, but also indirectly in the loss which is sustained through their withdrawal from the producing ranks of the community.*

New conception required.

41. If, therefore, conditions are to be materially improved, it is necessary that the old-fashioned picture of prison as a convenient lumber room, in which unwanted members of society may be stored away, should be replaced by a new conception of it as a place where the offender is reclaimed through appropriate means, educative, psychological and medical, and turned from being a social liability into a social asset.†

A place of moral regeneration.

42. Prison should be regarded as a place of moral regeneration, and as on the same plane as any other hospital, mental or general.‡ Its aim should be to treat the sufferers from the social disease known as crime, by individual attention to each case and the application of appropriate remedies, and so prepare them to resume their life and work in the free world outside, without loss of self-respect and deterioration of character—on the contrary, with a decided improvement in mental and moral condition.

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* *Per* Indian Jails Committee.

† A. F. Watson, "Meet the Prisoner."

‡ Cp. Hamblin Smith.

Mental study and treatment.

43. The mental study of the criminal should be an essential part of his diagnosis. It is probable that a considerable number of persons guilty of anti-social behaviour are suffering from various kinds of mental disease, and require neither punishment nor corrective training, but appropriate medical treatment. The time cannot be far distant when every prisoner will be medically examined in order to discover to what extent his behaviour may be due to physical and mental defects, and to decide on the treatment to be adopted for aiding recovery in each particular case. A provision to this effect was, in fact, included in the Criminal Justice Bill of Sir Samuel Hoare.

Commitments to prison.

44. If treatment is to be adapted to the varying categories and needs of offenders, there must be a check on indiscriminate commitments to prison. Only those must be sent who are likely to benefit by a relatively prolonged period of training.

Imprisonment should not be obligatory.

45. The Indian Penal Code makes a sentence of imprisonment obligatory for certain offences, such as those referred to in Sections 380, 381, 194, 226 and 449. We agree with the Indian Jails Committee that such provisions should be revised, and that the Courts should have a wider discretion to adjust punishment to the requirements of justice. They should have power in a proper case to refrain from passing a sentence of imprisonment on a person found guilty and to release him with a warning or on probation. This power is now exercisable in certain classes of offences and in regard to certain categories of offenders under Section 562 of the Criminal Procedure Code, but may with advantage be extended to cover other cases, as already suggested.

Measures for reducing commitments.

46. The extended use of probation both for adult and juvenile offenders, the prohibition of sentences of imprisonment on child offenders below fourteen years, and the provision of special reformatory institutions for the treatment of older juvenile and for adolescent offenders,—topics with which we have dealt separately—will by themselves tend to reduce the number of those consigned to prison. Commitments will be further diminished if bail is freely granted on practicable terms to poor persons accused of crime as to those with means, and if time is invariably granted for the payment of fines.

Petty sentences of imprisonment.

47. More than anything else, it is necessary to put a stop to the reprehensible practice of imposing petty sentences of imprisonment in all manner of cases. The

practice continues almost unabated in spite of repeated expressions of disapproval by Governments and the High Courts. In the West the condemnation of short sentences of imprisonment is widespread and practically unanimous.

Their injurious effect.

Such sentences are seldom deterrent and never reformative, while they are positively harmful in familiarizing the offender with prison, destroying his self-respect, and making him indifferent to further disgrace.* They are particularly futile in the case of young offenders, and an almost certain prelude to a life of crime. In addition to being prejudicial to the individual, they are also disproportionately costly to the State.

Statutory limit on short sentences.

48. The shortest term within which any serious reformative training can be successfully attempted is found to be three months.† Convicts sentenced to shorter terms cannot be taught a trade or employed upon any satisfactory form of work. There is a strong movement in England to curtail the power of inflicting short sentences by prohibiting absolutely sentences of less than three months. A reform on the same lines is equally needed in this country. As a first step towards its achievement, we would strongly support the recommendation of the Indian Jails Committee that sentences of less than a month, whether substantive or in default of payment of fine, should be prohibited by law.

Alternatives to short sentences.

49. The best alternative to a short sentence is not necessarily a long sentence, but rather the application of such constructive methods as may be available outside of prison. Subordinate courts should be enjoined to refrain from passing sentences of imprisonment in cases where other alternatives sufficiently efficacious in practice are available, such as fine, or conditional release, or release on security for good behaviour. But in cases of a serious nature, where imprisonment is considered to be indispensable as punishment, the term awarded should not be shorter than three months.

Improvements within the prison.

50. Within the prison itself there is abundant room and need for improvements in various directions, as detailed at length in previous chapters. Among the more important general measures of reform recommended are the following:–

(i) The removal from the ordinary criminal prison of youthful delinquents who have passed the age of sixteen, and their treatment in special institutions.

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* *Per* Indian Jails Committee.

† *Per* Ruggles-Brise, Hamblin Smith, L. W. Fox, A. F. Watson, and others.

(ii) The setting apart of a separate prison for habitual offenders solely.

(iii) A more complete system of classification and separation of prisoners, including the introduction of a "Star" class, and more cellular accommodation.

(iv) Measures for improving the tone and spirit of prison discipline and management, including herein a staff carefully selected, properly trained and adequately paid.

(v) A proper system of jail visitation.

(vi) Education for all prisoners likely to be benefited thereby.

(vii) Regular moral and religious instruction.

(viii) Suitable vocational training, with a variety of occupations and in connection with an improved organization of jail industries.

(ix) Better arrangements in regard to food and the timings of meals, greater facilities for recreation, and improved lighting.

(x) Increased amenities and personal comforts to prisoners, and additional facilities for visits and interviews.

(xi) The periodical revision of judicial sentences on long-term prisoners in accordance with the recommendations of an expert Advisory Board.

Not less important than any of the above is:—

(xii) An efficient system of after-care, capable of ensuring that a prisoner has a reasonable chance of rehabilitating himself on release.

Commitment to prison only as last resort.

51. But whatever improvements may be effected in prison administration, it must still remain true that imprisonment is generally an evil, and one that must be avoided when any other course can be followed without detriment to general interests. Commitment to prison should be the last resort, especially if it be a first offence and the offender a young person.

In their standard work on "English Prisons under Local Government," Sidney and Beatrice Webb, after remarking "that it passes the wit of man to contrive a prison which shall not be gravely injurious to the minds of the majority of the prisoners, if not also to their bodies," proceed to make the pregnant if somewhat paradoxical observation that, "so far as can be seen at present, the most practical and the most hopeful of prison reforms is to keep people out of prison altogether. It has been discovered that we can keep people out of prison by the

simple expedient of not sending them there." This, as we have seen, is quite practicable in a large number of cases by the adoption of equally, if not more, effective alternatives to imprisonment.

Reforms contemplated by Criminal Justice Bill.

52. The Criminal Justice Bill, introduced in Parliament in November 1938 by Sir Samuel Hoare, contained proposals which, if adopted, would have paved the way for the abolition of imprisonment as a method of treatment for offenders under the age of twenty-one. It sought to curtail the power of commitment, first, by the total abolition of imprisonment in the case of offenders appearing to be under sixteen years of age; secondly, by the prohibition of the imprisonment of persons between sixteen and seventeen years unless the Court certified that he was so unruly or depraved as to be unfit for detention in a remand home; and thirdly, by the requirement that no person between seventeen and twenty-one should be sent to prison unless the Court after enquiry was satisfied that no other method of dealing with him was appropriate.

The Bill also contemplated the substitution of certain alternative methods of treatment. In the case of young offenders, these included the provision of various new forms of establishments, namely, remand centres, and remand homes, compulsory attendance centres and Howard houses; also a new kind of Borstal institution.

In the case of other offenders, two new forms of treatment, not technically amounting to imprisonment, were proposed—namely, corrective training and preventive detention. Corrective training would be for not less than two, and not more than four, years on persons between twenty-one and thirty years of age. Preventive detention would be for not less than two, and not more than four, years on persons over thirty years of age, but extending up to ten years on certain types of offenders with records of repeated crime.

It is a pity that the Bill was not proceeded with, and had to be eventually dropped owing to war pre-occupations; for in several respects it represented a great forward step in penal reform, and might well have served as a pattern and a stimulus for action by other administrations.

Alternatives to imprisonment.

53. We have dealt in various connections with some of the preferable alternatives to imprisonment, such as discharge with a warning, release on probation, medical treatment of defectives in separate institutions, and

special institutional training in the case of juveniles and adolescent offenders.

Fine.

54. Still another mode of dealing with offenders is the imposition of a fine. This has the advantage that any social stigma that may arise attaches exclusively to the offence, and not to the penalty, as in the case of imprisonment. It should also allow of the better adjustment of the penalty to the gravity of the offence; but it is to be feared that Courts do not always take sufficiently into account the means of the offender in fixing the amount of the fine.

Proper grading of fines.

55. When the Court inflicts a fine, it does so because the offence is not considered serious enough to justify imprisonment. It follows from this that "when a person is sent to prison for inability to pay a fine, he suffers imprisonment not because of his offence, but because of his poverty."*

If fines were more justly graded according to individual capacity to pay, fewer persons would be imprisoned in default of payment, and fine might even be extended still further as an alternative to prison.

Imprisonment in default.

56. Imprisonment in default is in theory a distinct penalty for disobedience of the order of the Court, and not a substitute or alternative for payment. Nevertheless, it is an anomaly that the penalty for default should be severer than the punishment for the substantive offence, and not less so that the imprisonment imposed need not be simple, but may, under the Indian Penal Code, be rigorous.

Time for payment of fine.

57. A remedy for the admitted evil of mechanical commitments to prison in default of paying a fine has been provided in England by the Criminal Justice Administration Act, 1914. This lays down that, where any prisoner desires to be allowed time for payment, not less than seven clear days shall be allowed, in the absence of good reason to the contrary; and that in any case the imprisonment shall be without hard labour. This has greatly reduced the number of persons committed to prison in default.

Changes required in the laws.

58. The law in this country goes some extent in this direction, but not far enough. Section 388 of the Criminal Procedure Code, as amended by Act VI of 1927, gives power to the Court to grant time for payment of the fine

* Calvert, "The Lawbreaker".

and to permit payment in two or three instalments; but it does not make it incumbent on the Court to do so, in the absence of good reasons to the contrary. Further, the law (Section 64 of the Indian Penal Code) still contemplates the passing of a sentence of imprisonment in default simultaneously with and as an annex to the substantive sentence imposing the fine, instead of leaving it to a subsequent stage of the proceeding, after the contingency has arisen. The Court has thus no opportunity for reconsideration either as to the amount of the fine or as to the expediency of taking further coercive steps for its recovery. No committal order should, in our opinion, be passed by a Court before every effort has been made to secure payment and without giving the offender an opportunity to explain his failure to pay.

Restitution by wrong-doer.

59. Seeing that the great bulk of the offences charged and ending in conviction is against property, it is remarkable that the question of restitution is rarely taken by Courts into consideration. The person wronged is usually left to take what civil action he can to make good his loss.

Criminal Courts have now the power in certain cases to order payment of compensation for loss or injury caused by an offender's act, as well as the recoupment of expenses incurred in his prosecution. (Cp. Sections 519, 545, 546 and 546-A of the Code of Criminal Procedure). The range of the power is somewhat narrow; and even as it is, it is doubtful if it is as fully exercised as it might be. The wider extension and more general employment of the power to compel restitution seems highly desirable, both as a just and often an adequate penalty for an offence, and also as being a very effective means of bringing home to the offender the wrong he has done.

Law as to whipping.

60. The provisions of the law with regard to whipping as a judicial sentence are contained in Sections 2 to 7 of the Mysore Whipping Act, V of 1903, and Sections 390 to 395 of the Code of Criminal Procedure.

Under the former Act it may be awarded as an alternative punishment for offences of the nature of or allied to theft, extortion, receiving stolen property, and lurking house-trespass. In respect of certain offences such as false evidence, false charge of an unnatural offence, indecent assaults on women, robbery and dacoity, forgery, etc., a second conviction renders the offender liable to whipping as an additional punishment. Juvenile

offenders guilty of any offence punishable otherwise than with death may be sentenced to whipping in lieu of any other punishment.

Section 393 of the Criminal Procedure Code prohibits the whipping of females, of males sentenced to death, transportation, penal servitude or imprisonment for more than five years, and of males over 45 years of age.

How far a desirable form of punishment.

61. Whipping, it is generally admitted, is hardly the ideal method of dealing with an offender. But according to many it is a necessary or, at any rate, the best practical method available, in the case particularly of juvenile offenders.

Thus, brutality to other children, gross cruelty to animals, endangering the lives of railway passengers by putting obstructions on the line, these, it is said, are transgressions where the birch may prove an efficacious means of bringing home to the offender himself the sharp significance of pain.*

Whipping as punishment and as parental or school discipline.

62. There is, of course, a good deal of difference betweeen whipping administered on a child by way of parental or school discipline, and whipping inflicted by a policeman or jail warder on an offender whether a juvenile or an adult. The one may sometimes be an excellent corrective, the other can be neither deterrent nor reformative, but will tend too often to make the offender a tougher and more embittered man.

Case of sexual offenders.

63. The suggestion made by some that corporal punishment should be more frequently imposed on sexual offenders is evidently dictated, less by any reasoned conviction or proof of its efficacy as a corrective, than by a feeling of righteous indignation against a revolting form of crime.

Deterrent effect of flogging.

64. As observed by the learned authors of a recent work on penal reform: "No one, of course, denies that flogging like any other punishment may have a certain deterrent effect. So, no doubt, would the thumbscrew if its use were revived. The question at issue is not whether it is a deterrent, but whether it is a more effective deterrent than other less objectionable penalties which might be substituted. There is no evidence to support the view that flogging is specially effective, or that its abolition would be followed by any worse effects than the disappearance of any of the other cruel punishments the

* O. H. B. Starte, "Reformation of Offenders in India."

abolition of which proved nothing but a benefit to the community."*

General opinion against corporal punishment.

65. Opinion is now definitely turning against the continued use of whipping as a judicial punishment. It has been discontinued in practically every other country in the world outside the British Empire. Among countries which have abolished it are Austria, Belgium, Czecho-Slovakia, Denmark, France, Germany, Greece, Holland, Hungary, Italy, Switzerland, and Turkey. In many other countries where it remains legal, it is seldom, if ever, used.

Even in England the proposal made by Sir Samuel Hoare, in his Criminal Justice Bill, to abolish corporal punishment altogether outside of prison, was on the whole welcomed both in and out of Parliament as being a desirable measure of reform.

Whipping should be disused.

66. In most parts of India, sentences of whipping are much less frequent than other sentences, such as fine and imprisonment. The figures given below show that in the Mysore State the number of persons sentenced to whipping usually form a very small, if not insignificant, portion of all those subjected to punishment by the Criminal Courts.

In all the circumstances we think that this form of judicial punishment may be safely allowed to go into desuetude along with other relics of the primitive past.

Year	No. of persons punished by Criminal Tribunals	No. sentenced to whipping	No. sentenced to solitary confinement
1929–30 ...	7,453	9	Nil
1930–31 ...	10,043	5	,,
1931–32 ...	11,963	7	,,
1932–33 ...	15,162	5	,,
1933–34 ...	15,611	19	,,
1934–35 ...	16,235	57	,,
1335–36 ...	18,044	79	,,
1936–37 ...	22,985	22	,,
1937–38 ...	23,054	20	,,
1938–39 ...	24,061	12	,,
1939–40 ...	27,917	73	,,

*E. Roy and Theodora Calvert, "The Lawbreaker."

Solitary confinement.

67. We have elsewhere recommended the disuse of solitary confinement as a punishment for prison offences.

The solitary confinement of an offender for a certain portion of any term of rigorous imprisonment to which he may be sentenced is a recognized form of judicial punishment under the Indian Penal Code. But it has not been resorted to in Mysore for several years, as can be seen from the table given in the preceding paragraph, and in England it has been abandoned for all practical purposes.

Should be abolished.

68. The evidence as to its deleterious effect on health, and especially on the mental powers of persons so confined, is conflicting. But there is no doubt that it is one of the most expensive and unprofitable of penal methods.* Human beings are gregarious by nature; and compulsory isolation, instead of being a corrective, tends too often to breed resentment and accentuate anti-social feelings. On this ground among others, we would urge the abolition of solitary confinement as a judicial punishment.

Compulsory sterilization.

69. There is a movement in the United States of America in favour of the compulsory sterilization of habitual sex-offenders and moral degenerates, as well as of congenital criminals and persons suffering from heritable diseases. Some States have already adopted it as part of their legal code.

Not expedient as judicial punishment.

70. Whatever may be said in favour of such a measure from the eugenic point of view, we do not think public opinion in this country will acquiesce in its use as a judicial punishment. Even from the point of view of the prevention of sex-offences, sterilization would be far less effective than complete emasculation. In any case, such extreme measures can only be thought of after proper measures of curative treatment have first been tried and have failed.

Segregation of persistent criminals.

71. In spite of all measures of prevention and punishment, there must be a small residue of persistent offenders, beyond the reach of ordinary forms of treatment. We have dealt with the methods known as "Preventive Detention" and "Indeterminate Sentence" in connection with the treatment of recidivism. Persons who have served more than one period of corrective training, and have had adequate opportunities to live honestly but still continue to break the law, must be kept under prolonged

* Cp. Hermann Mannheim, "The Dilemma of Penal Reform."

segregation. But such segregation, as in the case of dangerous lunatics, is not by way of punishment but for the protection of society. Hence the detention must not be under penal conditions, but (as in the case of criminal tribes) in settlements where they could have such reasonable amenities as might make life endurable, and where, in company with their families, they might be trained to lead honest lives under proper supervision.

Capital punishment.

72. Authorities have generally differed with regard to the necessity for retaining the death sentence as a punishment for murder and other serious crimes. But opinion in recent years is steadily growing in favour of restricting its use, if not of its final abandonment.

Spiritual and moral considerations.

73. The case against capital punishment is put on a high spiritual and moral ground when it is stated that "to God alone belongs the awful prerogative of dismissing the soul from the body," that the State has no right to take away the life which God has given, and that even a murderer must have all his time for repentance and for reparation for his sin.

Other arguments.

74. To the worldly-wise, arguments of prudence and expediency will probably carry a greater appeal; such as that the death penalty is not really deterrent, or at any rate not more deterrent than other available penalties, that its rigorous employment does not tend materially to diminish violent crime, and that, on the other hand, in countries where it has been abolished violent crime has shown no tendency to increase. There is also the possibility of innocence being wrongly convicted, and the impossibility of recalling a sentence of death once it has been carried out. A further consideration is the morbid publicity now given to murder trials, which may induce imitative crimes by people on the verge of insanity.

How far death sentence deterrent.

75. There will perhaps always be a certain number of murders which no punishment will prevent, such as crimes committed under the influence of violent passion or sudden emotion, or by persons of unstable mentality, or deliberately perpetrated by persons confident of their ability to escape detection.

Apart from such cases, it cannot, we think, be denied that the possibility of being hanged does operate as a deterrent to many potential murderers. There are certainly fewer murders than there would be if murder were allowed to go unpunished; but this, as has been pointed

out, is not an argument in support of the death penalty, but simply a recognition of the necessity of punishment.

The long and successful experience of many countries without the death penalty supports the conclusion that a community can be as well protected from murderous crimes without capital punishment as with it.

Not more effective than other penalties.

76. Exhaustive enquiries made recently by a Select Committee of the House of Commons showed that it was far from certain that capital punishment is more effective than other available penalties as a deterrent against murder. On the contrary, the results confirmed the Select Committee in the assurance that the death penalty could be abolished "without endangering life or property." They accordingly recommended by a majority, in the year 1930, that it should be entirely abolished for an experimental period of five years. No effect has as yet been given to the proposal; but it is receiving increasing support among thoughtful people.*

Death sentence, if retained, should be reserved for extreme cases.

77. We are ourselves inclined to support the Select Committee's recommendation. But if eventually it is decided that the death sentence should be retained as an ultimate weapon for the protection of society and the prevention of violent crime, we would urge that at any rate it should be employed most sparingly and reserved for extreme cases of cruelty or organized murder. Imprisonment (for life or for a term of years) should be the normal punishment for murder, and special reasons should be assigned by the Court in every case in which it considers that the extreme penalty is called for.

Imprisonment for life must be shortened in duration.

78. It may be true that, as between lifelong detention inside a prison and instantaneous death by hanging, many or possibly most condemned prisoners will prefer the latter. But this is not an argument in favour of retaining the death penalty, but one for shortening the period of a life sentence and providing more humane conditions of treatment during that period. The normal length of a sentence of imprisonment for life should not exceed fifteen or at the most twenty years, and even this should be capable of material reduction through the regular operation of a remission system.

Disabilities attaching to conviction.

79. Conviction for a serious crime often entails, in addition to punishment and social degradation, various after-effects in the form of disabilities, sometimes attached

* Calvert, "The Lawbreaker".

automatically to the sentence, and sometimes annexed at the discretion of the judge. Such disabilities include dismissal from office, ineligibility for official service, forfeiture of pension, exclusion from the practice of a profession, the deprivation of titles and academic degrees, the loss of civil rights and rights of citizenship, and so on.

How far required for society's protection.

80. In so far as the loss of rights and privileges is aimed exclusively at the protection of society, there is, perhaps, something to be said in its favour. But it is rarely that society requires protection of this character. In most cases the disabilities imposed are cumulative additions to punishment, partaking more or less of a deterrent if not retributive nature. On principle, it is the crime itself that should carry the moral or social stigma if any, and not the fact that a penalty has followed its commission.

Restriction of scope and limitation of duration.

81. It has been suggested that, in the case of civic rights and disabilities, a distinction might be made between rights which the offender would share with the great majority of his fellow-citizens, such as the right to vote, and those which might lead to a position elevated above most others, as the right of being elected to the legislature or to a local body. Whilst rights of the latter type may properly be withheld, deprivation of the former would seem, in most cases, to be an unnecessary humiliation.*

Even with regard to the more special kinds of rights, and particularly with regard to the right to obtain an appointment or to practice a profession, we think that exclusion should not be perpetual, but that, after a definite period, varying according to the gravity of the case, it should lapse and cease to be effective. Such a course would be in conformity with that principle of "rehabilitation" which penal reform earnestly contemplates, and which is being developed in France and other continental countries.

Prejudice against reform of prison conditions.

82. A serious obstacle in the way of prison reform is the mass of ill-informed prejudice it has sometimes to contend against.

This generally takes the form of a querulous complaint that life for the prisoner is already too easy and pleasant as compared with the life of a free man outside, and a warning that any further improvement will make

*Hermann Mannheim, "The Dilemma of Penal Reform."

his position so superior to that of most free labourers that prison life would be made unduly "attractive" instead of deterrent, and that it would induce a preference for prison life on the part of many, and thereby tend to encourage crime.

What it implies.

83. Such assertions imply that there are in our society to-day great numbers of people with innate tendencies to crime, who are only restrained from qualifying for a prison life by the inferiority of its physical conditions, but who would be attracted to it if improvements, however necessary and natural in themselves, were made in its routine character.

Unjust to the common people.

84. This is a most unjust view to take of the morals of the common people, one which is sufficiently disproved by the fact that, normally, so large a proportion of the poorer classes lead an honest life irrespective of the so-called attractions of prison life.

Unsatisfactory conditions in free society.

85. Conditions in free society, especially as to employment, food and lodging, attention to health, and human satisfactions generally, are, there is no denying, so much below what they should be, that there is generally a strong temptation for a certain small fraction of the population to surrender the liberty that serves them so little, and seek the ordered security of prison life, even at the cost of enduring much bleakness, hardness, and mechanical discipline.

Homeless vagrants.

It is, too, a fact that homeless vagrants who have nowhere to lay their heads, and for whom there is no provision for public assistance, often profess a preference for prison. "It is a matter of indifference to a few ne'er-do-wells whether they spend a few nights in a workhouse, a prison or a barn."*

Ex-convicts.

It is true also that some ex-convicts, inured to the conditions of prison life, find it difficult to adjust themselves to outside conditions, and feel it irksome to have to earn their own subsistence. With the loss of self-reliance, and a progressive lessening of the capacity for feeling mental pain and even physical discomfort, they find that adaptation to the conditions of prison is the line of least resistance for them.

Prison conditions the reverse of encouraging to crime.

86. But it is not by such exceptional cases as these that the attractiveness or otherwise of prison life should be judged. There is abundant testimony from those with

* Hobhouse and Brockway, "English Prisons To-day."

first-hand knowledge of prison conditions that the incidents of prison life and discipline are in themselves the reverse of encouraging to crime.

Prison diet.

87. Taking for illustration the question of diet, we will quote as a sample of such testimony the fair and impartial opinion recorded by one who has held a high position in the Prison Commission of England and has also written a standard work on "The Modern English Prison". What he says in relation to the prisons in England is not less applicable to Indian prisons.

> "While the idea that the dietary of a prison should be specifically penal in conception has long been repudiated, the food provided is not designed to do more than maintain a prisoner in health and strength, and, no doubt, remains one of the least agreeable features of prison life to all but the poorest class of prisoner."*

Effect of improvements upon deterrence.

88. There is certainly no reason to think that the deterrent influence of imprisonment is affected by the character of the food now provided, even though in some respects it may be better than what an unskilled labourer gets outside. And there need be no apprehension that improvements dictated by humanity and warranted by experience, either as to diet or in respect of other details of prison treatment, are likely to lead to an increase of our prison population. "A man will not willingly sacrifice his freedom for a few additional ounces of food."

Alleged pampering of prisoners.

89. Speaking generally, it remains true that, for the average human constitution, prison discipline is distinctly severe. The majority of those who talk about prisons being too soft and prisoners being pampered are not prison officials, but persons with little or no acquaintance with the subject. One of the most successful Prison Governors in England has been quoted as saying: "I would very much like to rig up some of those critics in a prison suit of clothes, give them prison meals for a week, let them taste the alleged luxuriousness of cell equipment, and see if they complain about the warmth of their cell."†

Responsibility of society for condition of people.

90. If it is true that the prisoner is better cared for than the honest man in the streets, then this is indeed a serious indictment of the conditions of free life; but it cannot clear society of some share of responsibility for the conditions that make for crime and produce the criminal.

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* L. W. Fox. "Modern English Prison".

† Calvert, "The Lawbreaker".

Prisoners are like sick persons in hospital, and backward children in school. They have to be taken care of in the confined shelter of prison, educated, disciplined and taught some honest avocation, so that they may lead a more decent life after they pass out again into freedom.

It is the duty of society to improve the conditions of the common people in all possible ways. That this duty is for various reasons neglected or not adequately fulfilled is no justification for taking the condition of the ill-fed, ill-housed, and neglected poor as the standard for the treatment of the much smaller population which is taken under the involuntary care of the State. "It is not necessary or desirable that a Government department should imitate in a prison the poor quality of the unskilled labourer's diet, any more than it should imitate the squalor and over-crowding of workmen's dwellings."*

Consequences entailed by imprisonment.

91. When all is said, no sensible person will think that such comforts and alleviations as are provided for a prisoner in jail can make up for the loss of that freedom—together with the right to his good name and the right to lead his own life—which every normal person prizes most among all his human rights.

The privation of liberty is in itself for most persons the greatest of evils. But imprisonment necessarily means much more than that. It is not only his liberty, livelihood and reputation that are affected, but the subsistence and happiness of his unoffending wife, family and dependants, not to speak of his own unavailing anxiety on their account.

Tendency to decry humanity as false sentiment.

92. There has always existed a type of mind which is prone to scoff at the assertion of ordinary principles of humanity in dealing with wrong-doers as being false sentiment, and to decry any attempt to improve or mitigate prison conditions as a misguided effort to coddle the criminal. But its influence in these days has largely diminished, partly by reason of its own inherent lack of charity and discrimination, and partly owing to the growing strength of a more liberal and humane trend in public opinion.

Trend of penal and prison reform.

93. Penology is steadily advancing from the simple but crude system of meeting wrong-doing with condign punishment, towards an enlightened policy which seeks, on the one hand, to prevent crime at its source by dealing with its causes, and, on the other, to cure and rehabilitate

*Hamblin Smith, "Prisons".

the offender through non-punitive methods. And, correspondingly, prison reform is moving, albeit with slow and halting steps, towards a stage when prison will be used primarily for safe custody, and the deprivation of liberty will be the only, as it is even now the greatest, punishment. Instead of treating the prisoner simply as a hopeless element of the community, every possible effort is to be made to create in the man a sense of dignity and self-respect and of duty to the State and to his fellowmen. Training and reformation must be substituted for degradation and fear.

Test and measure of treatment of crime and criminals.

94. The true test and measure of the treatment of crime and criminals in a civilized society are admirably set forth in these eloquent words of Mr. Winston Churchill :—

> "The mood and temper of the public with regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country. A calm, dispassionate recognition of the rights of the accused and even of the convicted criminal against the State; a constant heart-searching by all charged with the duty of punishment; a desire and eagerness to rehabilitate in the world of industry those who have paid their due in the hard coinage of punishment; tireless efforts towards the discovery of curative and regenerative processes; unfailing faith that there is a treasure if you can duly find it in the heart of every man—these are the symbols which, in the treatment of crime and criminals, mark and measure the stored up strength of a nation and are sign and proof of the living virtue in it."

K. S. Chandrasekhara Aiyar,
Chairman. 31st March 1941.
B. K. Narayana Rao.
A. A. Khan.
B. G. Appadorai Mudaliar.
K. Shankaranarayana Rao.
D. H. Chandrasekharaiya.
B. Puttaiya.
R. Gopalaswamy Iyer.

B. K. Ramakrishnaiya,
Secretary.

GENERAL SUMMARY OF RECOMMENDATIONS.

CHAPTER II.

Prisons and Prison Buildings.

SECTION A.

PRISONS.	PARAS.*
1. The Prisons Act, XXVI of 1870, is defective in various respects, and requires to be replaced at an early date by a more comprehensive and up-to-date measure, on the lines of the draft Bill appended.	1
2. In place of the various classes and designations of criminal prisons, now in vogue, there may in future be two classes to be known, respectively, as "Central Jails" and "District Jails".	9
3. There may be two Central Jails, one of them exclusively for the confinement of persistent habituals, and the other for casual offenders with sentences of six months or upwards including long-term prisoners not being habitual or incorrigible criminals. These two classes of criminals must be effectively separated.	9, 15
4. There may be three District Jails, one at the head-quarter town of each Sessions Divison, for the confinement of persons sentenced to less than six months' imprisonment within the Division.	9
5. The present Magisterial lock-ups may be designated as "Subsidiary Jails" or "Sub-jails", and used solely for the detention of under-trial and remand prisoners and those committed for trial. Convicted prisoners should not hereafter be detained in a subsidiary jail.	10, 11
6. Juveniles and adolescent offenders should not be confined in prison at all, but kept in special institutions intended solely for them.	15
7. Where prisoners below the age of twenty-one are confined in prison, they should not be allowed to associate with older men, but kept in a class of their own.	18

*The references given are to paras in the body of the Report.

PARAS.

8. Till such time as the special institutions required for juveniles and adolescent offenders are duly established, all prisoners under the age of eighteen years may be removed to some place where suitable temporary accommodation may be made available. 19

9. Women prisoners may be confined in the ordinary jails, but in an entirely separate and independent block. Among them adolescents must be kept quite apart from the adults. Females belonging to the criminal tribes, and convicted of offences against property, should be effectively separated from the rest. 20

10. Political offenders and persons convicted of offences against the State should be confined in a separate block within the Casual Jail. 21

11. Civil debtors should be confined in a distinct block of the respective district jails. 21

12. In the Central Jail for habituals, accommodation will have to be provided for a maximum of 500 prisoners, and in the Central Casual Jail for a maximum of 800. 25

13. Each district jail should have sufficient accommodation for 200 prisoners. 25

14. Each sub-jail should have accommodation for 15 prisoners, except at Bangalore, Mysore and the Kolar Gold Fields, where provision may be made for 50 prisoners. 25

15. The accommodation in a sub-jail should consist of separate cells. 25

SECTION B.

PRISON BUILDINGS.

16. The Central Jail at Bangalore should be removed once for all to new premises in a convenient locality outside the city.

17. The opportunity may simultaneously be taken (as previously suggested) for isolating the confirmed habituals and incorrigible criminals in a separate prison, which may be established in a healthy spot at some distance from populated localities and, if possible, in predominantly agricultural surroundings. 31, 32

18. The new Central Jail at Bangalore will thus be wholly a Casual prison, and should have separate blocks for the various classes of prisoners to be detained. 33

PARAS.

19. Reference is made in the body of the Report to certain considerations and requirements that must govern the selection of a site for the new Central Jail at Bangalore. 36

20. The open land to the south-east of the Mental Hospital, and immediately adjoining its grounds, is recommended as being in every way excellently adapted for the purpose. 39

21. Various important points of detail are also indicated, bearing on the design to be prepared for the new Central Jail building. 40 to 52

CHAPTER III.

Prison Population.

SECTION A.

CLASSIFICATION AND SEPARATION. PARAS.

22. Provision should be made for the separation of the different classes of prisoners from the very commencement, including the period of quarantine. 4

23. The younger offenders and the beginners in crime should be effectively segregated from those more experienced, through the provision of a separate prison for habituals. 6

24. The system of progressive stages of discipline, with increasing privileges during each stage, should be adopted. 8

25. Casual or first offender convicts should be subdivided into "Star" and "Ordinary", on the principle of the segregation of the better from the worse. 10

26. Cellular confinement is to be preferred for confirmed habituals, for prisoners suspected of sodomy and other depraved or refractory characters, for prisoners who are concerned in pending trials and whom the magistracy wish kept apart, and also (by voluntary preference) for the better class of prisoners and persons in delicate health. 14

27. In the case of the younger offenders and the novices in crime, a controlled form of association in wards each limited to forty persons is sufficient. 15

28. Isolation in separate compartments at night with association in labour by day is the ideal system, a certain number of cells being, however, provided for the exceptional cases referred to. 16 to 18

SECTION B.

HABITUAL PRISONERS.

29. There should be a special prison entirely for habitual criminals with cellular confinement at night for all the inmates. 22

PARAS.

30. The definition of "habitual criminals" given in Rule 203 of the Mysore Jail Manual is defective and requires to be amended and amplified. 24, 26

31. Every prisoner should be given a reasonable opportunity of being heard before he is classed as a habitual, and should be entitled to apply for a revision of the order of the classifying authority. 27

SECTION C.

FEMALE PRISONERS.

32. The policy of concentrating female prisoners in a special institution, in the nature of a home of correction and reformation, has many and obvious advantages. But there is not at present a sufficient number of female prisoners all told to justify a separate institution for their detention. For the present, therefore, it is sufficient to provide separate and detached wards for women in the Central and District Jails. 28 to 30

33. Among female prisoners there should be a complete separation of the younger from the older prisoners. Juvenile offenders should not be confined in a prison at all. Girls below sixteen should be sent to a Certified School, and those of the age of sixteen or above to some institution for girls corresponding to the Borstal School for boys. 31, 32

34. Among the older criminals, first offenders should be kept from contact with habituals. 32

35. Women who have hitherto lived a respectable life should be kept completely apart from prostitutes and procuresses. And as among prostitutes, efforts should be made to separate the beginners from those who are hardened to the profession. 31, 33

36. Females who habitually commit crimes against property should be effectively separated from the rest, and confined in a separate yard. 34

37. Women committed for infanticide should be kept separately and treated differently from the ordinary run of criminals. 35

38. In every general prison where female prisoners are received, the female block as a whole should be altogether separate and detached from the blocks where the male prisoners are confined. 37

PARAS.

39. With the exception of the Superintendent and a few necessary members of the staff, the whole of the staff connected with the female block should consist of women. 38

40. When female prisoners are taken from one prison or sub-jail to another, there should always be a female escort. 39

41. Where the number of inmates is sufficiently large, they should be given instruction in spinning and weaving, knitting and needle work, hosiery and embroidery, basket and mat making, rattan work, and other occupations. 42

42. Female teachers should be engaged for imparting elementary education and instruction in domestic subjects and music. Religious and moral instruction may be left to voluntary agency. 43

43. Ample facilities for recreation should be provided. 44

44. Female prisoners should be encouraged to keep themselves neat and tidy. On grounds both of health and of privacy, there should be a covered private bathroom. 45

45. The matron should be a person with some medical qualifications and competent to attend to cases of ordinary ailments. It is desirable that a lady doctor should go round the female block once a week. 46

46. In every Central and District jail, there should be a separate ward for maternity cases, or other satisfactory provision outside the jail for cases of child-birth. 47

47. Female convicts in advanced stages of pregnancy should be released, the release in the case of lifers being on parole. Under-trials expecting confinement should, wherever possible, be released on bail, and in other cases removed to the nearest maternity hospital. 47

48. Female prisoners should be allowed to retain their children until they are five years old, or, with the approval of the Superintendent, even up to six years. 48

49. Interviews should be freer in the case of female than of male prisoners, and more readily available. 49

50. A certain number of women visitors should invariably be appointed in prisons where females are confined. 50

51. For every girl going out of prison a job should be found either with an outside employer or under the Society for Discharged Prisoners' Aid. 51

SECTION D.

Mental Defectives.

Paras.

52. The right place for the detention of mental cases is not a criminal prison, but a mental hospital. A prisoner who, in the course of trial, is found to be mentally defective, ought to be committed to the mental hospital for observation and cure, and not to a jail. 52

53. For weak-minded individuals who are not so insane as to require treatment in a mental hospital, it is desirable to provide a special home, but under the same charge as the mental hospital. 53, 54

54. Mental examination by experts should be provided in the case of accused persons as to whom there may be reason to suspect mental or emotional defect or instability as a contributory factor. All juveniles and adolescent offenders should be mentally examined by an expert in order to ascertain whether they are mentally normal or not. 55

55. All prisoners of whatever age should be similarly examined before they are released on probation or parole. 55

SECTION E.

Political Prisoners.

56. The question of what offences should be included under "political crime" is discussed. 58, 59

57. Special treatment as among prisoners has to be based not on motive alleged or presumed, but on the moral turpitude of the act, and on the status in life and antecedents of the prisoner including education and habit of living. 66, 67

58. For purposes of treatment, the threefold classification in force in British India is to be preferred to the existing division of prisoners in Mysore into "Special" and "Ordinary". The privileges of the special and intermediate classes may be assimilated in respect of diet, clothing and bedding, and of facilities in the matter of books and newspapers and of letters and interviews. 71

PARAS.

59. While inclusion in the two higher classes will rest with Government, persons recommended by the Courts may be tentatively treated as belonging to those classes until orders of Government are received. 71

60. Inclusion in the special class may be limited to those few individuals who break the law simply by way of protest and not as an organized movement against constituted authority. The larger group of educated and intelligent leaders and agitators may be included in the intermediate class. The generality, or the rank and file, may be classed for purposes of treatment with the ordinary casual offenders. 73, 74

61. Political prisoners should be kept quite separately from the rest of the prison population. As among political prisoners themselves, the leading spirits should as far as possible be separated from the common individuals. 76

62. The concession of procuring little luxuries and requirements like soap and toothpowder, books and stationery, at their own cost, may be extended to political offenders in common with all other prisoners who are well conducted. 78

SECTION F.

OTHER CONVICTED PRISONERS.

63. Prisoners who have been sentenced for violation of special laws deserve to be treated with such leniency as is possible, and should not be mixed up with the ordinary criminals. 79

64. In the case of persons of some social status or belonging to the leisured classes, where there is reason to believe that either the mind or the body is likely to be injuriously affected by the discipline or treatment, the same should be varied or suspended on a report made by the Medical Officer. 80

65. Provision should be made by rule for a special dietary or special clothing or bedding being issued, or the form of labour being changed, in suitable cases. 80

66. Section 53 of the Indian Penal Code should be amended, and simple imprisonment declared to be of two kinds, namely, (*a*) without liability to labour, and (*b*) with liability to light labour. All simple imprisonment should be of the (*b*) class unless otherwise directed. 82

PARAS.

67. The number of simple imprisonment prisoners is needlessly increased by sentences, usually for short terms, imposed in default of payment of fine. Time and facilities should be given to the accused for the payment of the fine in reasonable instalments. 84

68. During the period intervening between a death sentence and its execution, whatever is possible should be done to alleviate the position of the condemned prisoners. 85

69. Women under sentence of death should be kept in a cell in the female yard guarded solely by female warders. 85

70. Long-term prisoners suffering from incurable diseases, prisoners suffering from advanced tuberculosis or other infectious diseases, and lepers, should be totally segregated, and where possible sent to special medical institutions for treatment. 86

71. Any cell or other building which has been occupied by a leper prisoner should be thoroughly disinfected. 88

72. Clothing and bedding used by a leper should not be re-issued except to another leper prisoner, and should be thoroughly disinfected and washed before re-issue. 88

73. The simplest way of dealing with the question of sexual offences in prison is to confine juveniles and adolescents in separate institutions, and to put offenders known or suspected to indulge in evil practices in cells by themselves, keeping careful watch over their behaviour during the hours of association. 90

74. Old and infirm prisoners who have no friends or relatives to keep them should be accommodated in municipal poor-houses, instead of spending their last days uncared for in jail. 91

SECTION G.

CIVIL PRISONERS.

75. It is undesirable to herd civil prisoners along with convicted criminals within the same enclosure even if in a separate block. It would be best to confine them in a separate institution under purely judicial control. If this cannot be done, they should be kept in a separate

PARAS.

building or in a block outside of, or altogether detached from, the rest of the criminal prison. 93

76. Civil prisoners should be permitted the use of books from the jail library, and to obtain, at their own cost, books and newspapers from outside, and to engage in harmless in-door games or other means of spending time. So far as possible, separate sleeping accommodation should be provided. 94

SECTION H.

PRISONERS UNDER TRIAL.

77. Under-trial prisoners should not be sent to the ordinary convict prisons, but detained in subsidiary jails. 95

78. As among under-trials themselves, adolescent prisoners should be separated from the adults, and casuals should be kept apart from those known or suspected to be habituals. Prisoners who are known to have been in jail before, should be separated from those who, so far as can be ascertained, are in prison for the first time, and those accused of heinous offences or suspected to be habitual thieves or members of criminal gangs should be kept apart from the rest. 98

79. Arrangements must also be made to render possible the complete separation of such prisoners as are concerned in the same case, and particularly of those whom the magistracy specially require to be kept apart. 98

80. Available information as to the character and previous history of every under-trial should be furnished to the sub-jail authorities at the time of the remand. 99

81. In all future construction, the accommodation to be provided for under-trial prisoners should be cellular in character. 100

82. The concessions and amenities applicable to under-trial prisoners require to be amplified in various respects. 101

83. Under-trial prisoners should not be made to walk from prison to court for trial, but taken in closed conveyances to and from, unless the distance is quite short. No prisoner should be made to appear in court in fetters except with the special permission of the court. The practice of making a prisoner stand in the dock all throughout the trial should be discontinued. When an

PARAS.

under-trial prisoner has to be sent to court, he should be given his food before he goes, and arrangements must be made to enable him to have his food when he returns. If an unconvicted prisoner is seriously ill, the Superintendent should report the fact to the Court, with a medical statement of the case, in order that, if the court sees fit, the prisoner may be released on bail. 103

84. The detention for unduly long periods of prisoners pending trial calls for effective action.

The officer in charge of every prison where under-trials are kept should be required to send to the Magistrate concerned fortnightly reminders regarding all cases of detention for more than 14 days. He should also intimate all cases of under-trials detained for bailable offences where bail is likely to be offered. If the detention exceeds one month, he should report the fact to the District Magistrate; and if it exceeds three months, also to the Inspector-General. The latter, may, if necessary, bring the matter to the notice of Government. The submission may be prescribed of a quarterly statement of under-trial prisoners, showing separately the number of those in custody for more than three months in cases before Magistrates and for more than six months in cases before the Courts of Session. It would have a most salutary effect if the Government and the High Court were to take adequate notice of particularly gross cases of prolonged detention. 105

85. It is desirable to enact that the period of detention prior to conviction should count in reduction of the sentence of imprisonment to be undergone, unless the court in its judgment otherwise directs. 106

CHAPTER IV.

Employment of Prisoners.

SECTION A.

Prison Labour.

PARAS.

86. It is not desirable that any convicted prisoner should be altogether idle in prison. Simple imprisonment should be of two kinds, as recommended in Chapter III, Section F ; one involving no labour and to be reserved for exceptional cases based on a consideration of age, sex and social position, and the other for all other cases and which would necessitate light labour of a prescribed kind. 1, 2

87. The principles and considerations that should govern the selection of prison labour are indicated. 5, 6

88. The employments available in prison are reviewed. 8 to 18

89. Reference is made to various practical considerations which determine the graduation and adaptation of labour. 19

90. Unless with the special sanction of Government, convicts should not be employed outside the jails in which they are confined, or in any form of work except such as is performed in the jail premises and for jail purposes. 23

91. Extra-mural labour of every kind should be abolished, including the practice of sending covicts out for work in connection with public buildings and parks and official residences. 24

92. Employment on public works should be restricted as a rule to jail buildings. 25

93. Female prisoners should ordinarily be employed in cooking or in the preparation of articles of food, but should not be employed in grinding grain except as a punishment. They should be given instruction in needlework, knitting, and other useful domestic industries. 26

94. The maximum proportion of prisoners who may be employed as jail servants and hospital attendants may be reduced from fifteen to ten per cent. 27

PARAS.

95. A garden of sufficient size should be attached to every jail, so that the full amount of vegetables required for the diet of prisoners may be grown with prison labour. Jail walls should be extended so as to include the vegetable gardens also. 28

96. The possibility of an agricultural adjunct to prison is discussed, and the inclusion of agriculture as one of the recognised modes of employment for prisoners is advocated. 29 to 35

97. Since agriculture is a seasonal occupation, it will be necessary to provide additional or alternative means of employment in or near the prison. 32

98. While a certain number of prisoners may be employed on agricultural work, as many as possible should be put on out-door labour of some kind during some portion of their term of sentence. 36

99. The bulk of the prisoners, especially the long-term ones, will have to be employed on intra-mural labour. 36

100. As regards the new prison for habituals, agricultural work may be a principal form of labour; at the same time, it will be necessary to have a certain number of select cottage industries. 37

101. A dairy farm has no particular advantage from the point of view of prison labour or training. 38

SECTION B.

INDUSTRIES.

102. Convict labour must be productive, profitable reformative, and educative. As soon as possible after the first stage of prison life is over, the prisoner should be taken away from heavy unskilled labour and employed on tasks of a more useful and interesting nature. While certain hard and deterrent forms of labour must be kept available for the recalcitrant and for the initial stages of imprisonment, the main industries should be educative and interesting. 40, 41

103. For purposes of industrial training of any but the simplest character, preference should be given to prisoners coming from towns and other industrial areas. Lifers and long-term convicts are particularly well situated

PARAS.

for learning a new avocation. In the case of short-term prisoners not belonging to the agricultural classes, the less skilled types of industry, such as hand spinning and weaving, should be chosen. For confirmed habituals, averse by nature to sustained honest work of any kind, the harder varieties of the metal industry may prove suitable. 42, 43

104. In the case of female prisoners, it will be necessary to have somewhat different arrangements for training, which should include needle-work, cutting out and sewing ordinary clothes, and the use of the sewing-machine. 44

105. While it is sound policy to eschew multifarious industries in the same jail, and to develop some one large industry in each large jail, it is important to have at command a sufficient range and variety of industries in order to subserve the multiple aims of prison labour. 45

106. The question whether power should be introduced and power plant established on a large scale is a question, not so much of principle, as of practical utility and prudent management. Where such a step is required for large scale production to meet existing demands, or to economize costs to a material extent, and where it will not lead to an excessive displacement of human labour, its adoption should not be banned. 50

107. Old fashioned methods of work and all unproductive forms of labour and unskilled handicrafts must be discarded. 51

108. Jail industries should be developed and brought up-to-date as much as possible, and every encouragement should be given to the Prisons Department to make a good profit on the working of the factories. 51

109. If prison industry is to be profitable, it must, in the first place, make all or most of the things required within the prison. In the next place, it must as far as possible meet the requirements of the great consuming departments of the State. If, after these double requirements are met, there is still room for increased production, there can be no objection to sales being made to the general public, provided there is no under-cutting in the matter of prices, and no undue advertisement. 52, 53

110. Jail manufactures should be carefully chosen so as to avoid competition with weak and unorganized trades or with budding industries. Labour should be directed into those channels in which large, organized powerful industries are already in existence. . 55

PARAS.

111. The general policy of Government in regard to the purposes to which jail industry must be devoted may be supplemented by detailed instructions on lines suggested in the Report. 56

112. Where goods have to be sold to the general public, the prices should follow as closely as possible the market rate. But prison authorities must have a discretion to fix prices at rates at which the goods will readily sell, as long as there is no undue competition. 57

113. Articles intended for sale to the public should be collected and sold at a central show-room. 58

114. An arrangement by which all or most of the surplus prison labour will be employed in meeting the requirements of the State departments pre-supposes two essential conditions. One is that departments should be prohibited from placing their orders elsewhere, even if cheaper rates can be obtained from private agencies for articles which can be prepared in jail. The other is that prison manufactures should be conducted at least as well as they would be conducted by outside agencies; and for this purpose the instructors, the materials, and the plant must be thoroughly good. 60

115. Prison industries must be placed under skilled supervision and run on business lines. There should be a chief Technical Instructor, preferably an officer of the Industries Department, and under him at least three trained instructors, one for each of the main industries with the auxiliary industries that may be included under them. 61

116. Printing should be revived in the Bangalore Central Jail. Metal work should be included in the list of industries. The manufacture of washing soap and phenyle for jail use may be added if it be found to make for economy. The textile industry is eminently suited to prison conditions and has great potentialities. 63 to 65

117. It is possible, with proper methods of business, to make an industrial jail fully self-supporting from the commercial point of view. 66

118. The system of accounts maintained in Mysore prisons should be overhauled and revised. Certain points which should receive particular attention are indicated. 67, 68

CHAPTER V.

Prison Offences and Punishments.

PARAS.

119. The provisions of the Prisons Act of 1870, in regard to prison offences and punishments, are not sufficiently comprehensive, and do not cover various matters dealt with in the Mysore Jail Manual. 1 to 8

120. Punishment should not be awarded summarily on the word of a Jailor or Warder. A proper enquiry should be made into the charge, and full opportunity given to the prisoner to put forward his explanation. Every punishment should be recorded then and there in the punishment book. 9

121. Punishment should not be too much in evidence. Though wilful disobedience of rules cannot be overlooked, punishment should be tempered by mercy and forbearance. 10, 13

122. For most offences of a not aggravated character, the deprivation of privileges, rewards and remissions ought to be sufficient punishment. Forfeiture of remission and other privileges should be tried first, and followed up when necessary with the lighter punishments, the heavier ones being reserved for those prisoners whose offences are really serious or who have not improved by light punishments. 13

123. Corporal punishments for jail offences should be abolished once for all. 18 to 24

124. The attaching of handcuffs to a staple in front of the prisoner, and other punishments like bar-fetters and cross-bar-fetters, should be definitely abolished. The maximum period for which link fetters can be continuously imposed should be reduced to thirty days in ordinary cases, and should not exceed three months in any other case. The use of the belchain should be prohibited except as a strictly temporary measure in certain specified contingencies. 25

125. Solitary confinement as a jail punishment should be abolished. 27

126. Restrictions should be placed on the award of combined punishments on the lines provided in later Indian legislation. 28

127. Early steps should be taken to introduce locally various other beneficial innovations made in British India in the system of prison punishments. 28

CHAPTER VI.

Reformative Influences.

SECTION A.

Education.

PARAS.

128. Education in prison must be compulsory, and should take the form of elementary instruction in reading, writing and arithmetic, with the aid, where possible, of simplified methods. Such instruction should be given to every illiterate prisoner irrespective of age, provided he is not too old or unintelligent to learn. Those who desire education beyond the elementary stage should be given the necessary books and any available assistance. 2 to 4

129. Education must be given in the vernacular, English being taught in addition in a certain number of cases. 7

130. The educational work in prison should receive full co-operation, in the shape of supervision and advice, from the Department of Public Instruction. 6

131. For a prison with over a hundred prisoners, at least two paid teachers will be required. The voluntary help of outsiders should be welcomed; and the services of literate prisoners may also be utilized, special remissions being given to them. 8

132. The class hours may be from 7-30 to 10 in the morning for prisoners below twenty-one years, and from 1-30 to 3-30 in the afternoon for the older ones, the men being taught in convenient batches. 9

SECTION B.

Books and Newspapers.

133. The important part played by the prison library in combating illiteracy and ignorance should be practically recognized. The library should be provided with an ample supply of books and periodicals in the vernaculars and in English. The contents should be varied in

PARAS.

character, and comprise books on topics which are wholesome and likely to be interesting to the men. Selection of books should be carefully made, and always from the point of view of the prisoners for whose benefit they are intended. The right to censor books should be exercised sparingly and with discrimination. 10 to 12

134. Prisoners should be permitted to have books of an unobjectionable character sent in by their friends, and to buy books out of their private money. Literate prisoners may be allowed to read such books to other inmates. 13

135. Jail libraries will require a small grant from Government, which will have to be supplemented by gifts of books from private persons. 14

136. The guiding principle being to encourage rather than restrict good reading, there should be improved facilities for getting wanted books from the library. The most convenient arrangement would be to place the library in the same block in which the educational classes are held. 15

137. Note-books and pencils should be allowed to well-behaved prisoners. Educated prisoners may be permitted to procure any necessary stationery at their own cost. 16

138. The natural longing for news of the outside world should not be suppressed through the banning of news in prison. News items and other particulars now broadcast to the public through the radio may be made available also to prisoners. Alternatively, arrangements may be made for the reading out of select news matters contained in newspapers, or in special periodicals prepared for circulation in jail. Educated prisoners should be allowed to get their own papers. 17, 18

SECTION C.

RELIGIOUS AND MORAL INSTRUCTION.

139. The importance of giving regular religious and moral instruction to prisoners cannot be too strongly emphasized. The instruction officially provided should be non-sectarian and factual in character, and as far as possible on lines general and common to all. The aim should be to enforce the elementary principles of right living, and not to enlarge on religious tenets and dogmas. 19 to 21

PARAS.

140. It will still be open to recognized private organizations to arrange for denominational teaching to their co-religionists. The arrangement under which Hindu and Muslim preachers are appointed, with an allowance to cover their conveyance expenses, may be continued. 21, 22

141. Religious and moral lectures in jail should be allowed only on condition that no proselytizing is carried on under the cloak of instruction, and that lecturers should confine their attention to prisoners of their own faith. All interference with genuine religious and caste prejudices of prisoners should be carefully avoided. 23

142. Charts containing moral precepts and rules of conduct may be hung up in all cells and barracks. 20

143. Official non-sectarian instructors on the staff may be paid from Rs. 30 to Rs. 50 a month, according to merit and length of service. 22

144. Outside influences, in the form of lectures and addresses on lay subjects, have both an educative and a moral value, and their systematic introduction should be encouraged. These lectures may cover a wide range of subjects of general interest. Where possible they may be illustrated by lantern slides or motion pictures on a screen. Instead of only one or two stereotyped speakers, it would be better to have several on the list. In exceptional cases even educated and respectable convicts may be permitted to undertake the task under supervision. 24, 25

145. Evening discussions and debates on subjects chosen by the prisoners themselves or suggested to them may be tried. 26

SECTION D.

RECREATION.

146. The filling in of the long interval of three hours between lock-up and sleeping time is a very urgent part of prison reform. The success of any scheme in this respect is dependent on there being efficient lighting. Where at all possible, every jail should be lighted with electricity; if not, by really good oil or petrol lamps. 28 to 30

147. All open air recreation should come before the evening meal. After the evening meal and when the lights have been turned on, an hour may be set apart for

religious and moral instruction, for general lectures and for discussions and debates. Another hour may be devoted to *bhajanas*, music and listening to news summaries. This will leave just about an hour until 9, which may be given up to radio music, news bulletins, and wireless talks. 31, 32

148. The installation of wireless sets is a material aid to recreation in prison. Prisoners may be allowed to organize a band or orchestra among themselves. 33

SECTION E.

VOCATIONAL TRAINING.

149. The principle of co-ordination between general education and industrial training must be recognized and kept in view. Training must, ordinarily, be given in connection with the industries carried on in jail. Vocational training must train a man to work with modern machinery, and teach him a trade that will be useful to him on release. Such men as already possess a knowledge of some industry should be kept at it and improved in their knowledge. Others should be taught crafts that they can take up after release. Attempts should be made to train the purely casual labourer in some industry which would be of service to him in social life. 35 to 39

SECTION F.

INTERVIEWS AND LETTERS.

150. The humanizing influence of a close touch between a prisoner and his family and friends should be encouraged, and the rules on the subject of interviews and letters made as liberal as possible. The scale now prescribed for ordinary prisoners is insufficient. Every well-behaved prisoner should be permitted as of course to have interviews once a month, and to write and receive letters at intervals of a fortnight. This will equalize the privileges of all classes of prisoners in this respect. The right to deprive a prisoner of the privileges in question as a punishment for a prison offence should be sparingly exercised. 40 to 43

PARAS.

151. The procedure for the grant of interviews should be made as simple as possible, and divested of needless delay and formality. The existing rule in regard to interviews other than those ordinarily provided for should be relaxed to meet special circumstances, and the Superintendent empowered to grant such interviews himself. 44

152. The facilities for having letters written on behalf of illiterate prisoners should be amplified. No restriction should be placed in the way of any fellow prisoner offering to help another in this respect, provided the service is rendered during the off-hours. Writing materials should be supplied free to such prisoners as need them. The right of the Superintendent to withhold letters should be sparingly exercised, and never without the most satisfactory reasons. If the Superintendent declines to sanction an interview or the sending or receiving of a letter, he should record his reasons. 45 to 47

153. Non-official visitors of institutions should make it a point to look into the adequacy of the facilities obtaining. They should ascertain whether prisoners are aware of the extent of their privileges and possess sufficient facilities for exercising them. 48

154. Interviews should be arranged, not in a box or behind bars, but in a properly constructed interview room provided at or near the main gate. It is unnecessary to search a prisoner before or after an interview, unless there is good reason to suspect that some objectionable article has passed. The advisability may be considered of putting up a double wire-mesh screen between the prisoner and the person interviewing him. 49

CHAPTER VII.

Incentives to Industry.

SECTION A.

The Remission System.

PARAS.

155. It is unnecessary to extend the grant of remission in respect of sentences of imprisonment above three and below six months. 2

156. While there is no objection in principle to the forfeiture of remissions already accrued, such forfeiture should be imposed only with the sanction of the Inspector-General.

157. The rate of remission in the case of convict night-watchmen may be increased from four to five days per month. Prisoners employed in prison services now receive two days extra as ordinary remission per quarter; this may likewise be increased to three days. Convict nursing orderlies may be awarded extra remission and gratuity at the same rate and scale as for convict night-watchmen. 4

158. The rate at which convicts may convert the gratuity earned by them for extra work on remunerative labour into remission of sentence, may be fixed at two instead of four annas per day. The same rate of remission may be allowed in the case of convicts sentenced to terms of two years and below, in lieu of any gratuity earned. 5

159. The grant of remissions on special occasions may be discontinued. 6

160. Habituals with several previous convictions do not require such liberal remissions as the rules now allow. The remission that can be earned should be gradually reduced with the increase in the number of convictions. The reduction may begin after four convictions, and cease after eight. 7

SECTION B.

Gratuities.

161. The gratuity earned by a prisoner should be the prisoner's own property, and should not be liable to be forfeited as a jail punishment. 9

PARAS.

162. The prisoner should be permitted to dispose of a certain portion of his gratuity, not exceeding one-half, for his own needs and comforts in jail, and the rest should be accumulated for his benefit and made over after the expiry of his sentence. 10

163. Instead of payment in money, gratuity may take the form of vouchers, in exchange for which the prisoner may obtain through the jail authorities such little needs and luxuries and extra comforts of any approved kind as he may desire. 11

SECTION C.

EARNING SCHEME.

164. There are various practical difficulties in connection with the operation of a wage distribution system. But it may be tried experimentally in connection with all that part of the earnings of prisoners which corresponds to extra work and specially good work done over and above the prescribed quota. No deductions need be made on account of establishment, overhead, maintenance, and other charges. 18 to 21

165. It is desirable, as an incentive to prisoners to work diligently, and as a help to set them up after discharge, to fund a small defined percentage of the labour charges assumed in the calculation of manufacturing costs, and to credit the same to their personal accounts, the amount becoming payable to them at the time of discharge. 22

CHAPTER VIII.

Physical Well-being.

SECTION A.

Diet.

PARAS.

166. To obviate complaints of partiality in the uniform distribution of boiled rice and ragi, there may be an express rule permitting a slight increase of quantity in the case of prisoners who require the same. Instead of ragi meal being made into a bulky ball, option may be given to prisoners to have it converted into thinner cakes and made somewhat crisp. The quantity of dhall issued to non-labouring prisoners may be increased to three ounces. 2 to 4

167. The quantity of soup or curry served may be slightly increased. A larger variety of vegetables may be used in rotation, and also more use made of miscellaneous greens and less of potatoes and solid vegetables. As much variety as possible should be introduced into the fare provided. 5, 6

168. Butter-milk should be issued daily, eight ounces being allowed to each prisoner; but twice a week curds may be mixed with the rice food distributed. The entire process of the boiling of milk and its conversion into butter-milk should be supervised by the Sub-Assistant Surgeon. The Superintendent and the Medical Officer should also independently satisfy themselves by frequent surprise visits that the prisoners receive the full benefits of butter-milk. 7, 8

169. The quantity of gingely oil and salt may be slightly increased. Some slight change in the ingredients of curry powder is advisable, particularly a reduction in the quantity of pepper and the addition of a little more coriander seed. 9, 10

170. Meat should continue to be issued to non-vegetarians once a week. 11

171. The use of pounded rice is not feasible. 13

172. The convicting court should have power to determine the class of diet as well as the kind of grain which newly sentenced prisoners should receive in jail.

PARAS.

A rule may be framed to provide for this, and to enable the prison authorities to meet the needs of prisoners whose staple food is other than rice or ragi. 15

173. The prescribed number and timings of the meals given to prisoners are unsuitable and require to be altered. The principal meal of the day should be fixed for 12 NOON or a little before. A light meal, in the shape either of *kanji* (gruel) or cake or boiled rice, with *chutney* or lime pickle, should be served early in the morning, immediately after unlocking. The evening meal should be similar to, but less substantial in quantity than, the mid-day meal, with, if possible, somewhat different ingredients. This should be served on completion of the day's work, but ordinarily not earlier than 5-30 P.M., when there would still be light at most seasons of the year. The regular number of meals would thus be three, and they would be served at intervals properly spaced. 16 to 19

174. As far as possible the prisoners' food should be served out and reach them hot. To allow of this being done, the principal meal should be cooked in the morning, after there is daylight, and served at mid-day. 20

175. Kitchen doors and windows should be invariably fitted with fine mesh gauze to keep out flies. The kitchen itself should have two doors with an intervening space. The use of iron pots for cooking should be restored instead of brass and copper vessels. The kitchen should, as far as possible, be free from smoke. Proper arrangements should be made for leading the smoke out of the oven by suction through tall chimneys. Cooks should be required to keep their hands perfectly clean, washing them occasionally in permanganate of potassium solution. Separate cooking places may be allowed to vegetarians as a class, besides Brahmans. It is advisable to change the convict cooks frequently, so as to minimize opportunities for smuggling, unequal distributions and other malpractices. 21 to 26

176. In each yard some place should be provided in which the prisoners can be fed when it is too wet or too sultry for them to eat their food in the open. A covered varandah along the sleeping barrack or workshop will usually suffice. Every such place should have a water-tap and a sink for washing the hands and vessels. 27

177. The contract tender system has, on the whole, worked satisfactorily. To ensure the due fulfilment of the terms agreed to, it will be desirable to require the

PARAS.

contractor to make a deposit by way of security. The existing practice, under which the provisions supplied are left in the charge of the contractor in a store room inside the jail premises, is not a desirable arrangement. The contractor should have nothing to do with the articles once they have been scrutinized and approved and have passed inside the prison gates. 29, 30

178. Two months' supply should be stocked as a rule. Properly built, rat-proof godowns should be provided, in which grain and other supplies can be stored in bags. A small percentage of deduction may be allowed on account of loss and wastage during cleaning and issue. 31, 32

179. Such antiscorbutic vegetables as are suitable for the purpose should be stored during the season of plentiful supply for issue in the following hot weather. 33

SECTION B.

PERSONAL NEEDS AND COMFORTS.

180. Prisoners should be permitted to wear their own ordinary clothing when attending a court either as witnesses or as accused persons, and when being transferred from one prison to another. 35

181. In cold weather all prisoners should be given a thick cotton underwear in addition to the jubba or coat. For prisoners confined in Malnad prisons, an additional blanket may be given during the cold months. The length of trousers may be increased in the case of all prisoners so as to reach to within four inches above the ankle. Cumblies should be made out of cut wool, instead of scraped wool. 36 to 38

182. "Chowlu" or fuller's earth, now supplied for the washing of clothes, may be replaced by washing soda or, better still, by washing soap if it could be manufactured economically in jail. It is desirable, if there is a prison laundry, to have the clothes cleaned there at regular intervals. In any case both clothing and bedding should occasionally be dry cleaned or passed through steam. A large steam disinfector should be installed in the larger prisons. For the smaller ones simpler but sufficiently effective devices may be introduced. All bedding should be placed in the sun to air every day. 39, 40

PARAS.

183. Not only should daily bathing be encouraged in the interests of health and cleanliness, but it should be enforced as a general rule except in the case of the really weak or sick. A warm or tepid bath should be provided for those medically certified as unfit to stand a cold water bath, as also for prisoners in the Malnad during the winter season. To prisoners accustomed to take oil baths, an ounce of gingely oil with an ounce of soapnut powder may be issued once a fortnight. Those who use toilet soap may be allowed to procure the same at their own cost. Each prisoner should be given a pair of towels once in nine months. They should be at least thirty-six inches long by twenty-four, if not longer. 41, 42

184. The storage of bathing water in troughs is unclean and wasteful, and should be replaced by a system of taps from a metal water-tank, or by a pipe line taken from a water-supply connection and with a number of out-lets. Separate cisterns or buckets should be provided for water required for washing clothes. Bathing platforms should be provided with roofing and paved with stone slabs. Where possible, screen partitions should be provided to secure privacy. The used water from all parts of the prison should be collected, and led away in open drains for utilization in the kitchen garden. 43 to 45

185. Proper care of the mouth should be insisted upon, and every prisoner required to clean his teeth daily. The issue of charred paddy husk powdered and mixed with salt should be regularized. 46

186. The existing type of latrines should be replaced, wherever sufficient water is available, by flush latrines. Till this is done, latrines should be floored with cement, provided with proper foot rests, and supplied with zinc buckets. Privacy should be secured by means of partitions between the seats not less than four feet high. The outer enclosure of each latrine should be covered over with fly-proof gauze, and the doorways similarly enmeshed and provided with a spring arrangement. Water for ablution after resort to the latrine must be provided at or close to it. The restrictions aimed at visits to the latrines except at stated hours or without previous permission should not be too rigorously enforced. The present system of having in each cell or barrack an earthen pot for night use should be done away with and replaced by a flush-out, or, if this is not feasible, by a cage latrine allowing of the contents being washed out and cleaned from

PARAS.

outside. The night-soil from all the latrines should be collected and used as manure for the prison garden. 47 to 52

187. The concession now permitted to certain classes of prisoners, in the matter of articles like tobacco, snuff, betel-leaves and nuts and similar petty indulgences, should be extended to the generality of well-conducted prisoners of all classes. All purchases must be made through the jail authorities, such articles of luxury or comfort as are in common demand being kept in the prison stores. 53, 54

188. Electric lights should be installed in every prison, large or small. Lights should be provided till 9 P.M. in the association barracks and the cells for special and intermediate classes of prisoners, and all through the night in the passages and verandahs. 55

SECTION C.

HEALTH.

189. Cases of infectious or contagious disease likely to be communicated to other inmates should be immediately segregated to prevent infection from spreading, as also cases of diarrhœa, dysentery, typhoid and cholera. All bedding and clothing should be sterilized properly both on admission and on discharge of prisoners. During epidemics the rooms and furniture should also be frequently disinfected. 56

190. Sick prisoners should be treated in the prison itself, and not in hospitals intended for the general population. Every Central Jail should have its own hospital, fully equipped for dealing with all common ailments. The District jails should have dispensaries equipped on a smaller scale, but adequately enough for their ordinary requirements. Cases of emergency requiring immediate attention should, as a rule, be attended to in the prison hospital or dispensary. 57 to 61

191. Cases of illness in the female block should be attended to by the prison doctor, where the services of a lady doctor cannot be regularly arranged for. The matron and her assistants should have a knowledge of nursing. If possible, the former should be a person with some medical qualifications and competent to attend to cases of ordinary ailments. 62

PARAS.

192. At least twenty beds for in-patients should be made available in every central prison, and about six or seven in every district jail. The arrangements in the case of a sub-jail should include an out-patients' block, an isolation ward, and a separate room for in-patients with from two to five beds. 63, 64

193. Special precautions should be taken to prevent the spread of bowel diseases, which are common during the rains. Prophylactic quinine should be issued to prisoners during the malaria season. Venereal disease should be diagnosed and treated at the earliest possible moment. All venereal cases should be isolated in a separate part of the prison. Patients suffering from tuberculosis, leprosy, or other severe forms of infectious or contagious disease, should be removed to special institutions where such exist, or else segregated in detached annexes to jails. There should be separate wards for infectious and for epidemic cases in each jail. The wards must be self-contained as regards water facilities, latrine arrangements and the like. 67, 68

194. Proper provision has to be made for dealing with hunger strikes, and regulating the conditions under which artificial feeding should be resorted to. Certain additions to the rules on the subject are suggested. 69

195. Each jail should be provided with a reliable weighing machine of a modern type. 70

196. Prisoners who are so seriously ill as to require medical aid and nursing at night should be kept in a separate ward. A Sub-Assistant Surgeon should, if possible, sleep in the jail; else, a telephone should be put up connecting the hospital with his quarters. 72

197. Where a prisoner is seriously ill, it will be advisable for the prison authorities to send intimation of the fact to any known friend or near relative of his. 73

198. Provision should be made for giving proper training to convicts selected for nursing duty. Sufficient inducements should be given to such men in the shape of extra remission and gratuity. The quality of the nursing in the central prisons should, if possible, be improved by the addition of a few qualified and well-trained salaried male nurses. 74, 75

199. A beginning should be made in the direction of increased attention to the mental condition of prisoners. A trained psychiatrist should be attached to the staff of the Central Jail. 78

CHAPTER IX.

Release, Accelerated and Conditional.

SECTION A.

ACCELERATED RELEASE. PARAS.

200. A Standing Advisory Board with a defined constitution is a guarantee that all aspects of the question of premature release will be carefully and impartially considered in every case. It may be assumed that its recommendations will be accepted by Government in the generality of cases. Where a recommendation for release is not accepted, the case should be required to be re-submitted for consideration after such period as the Government may direct. 4

201. The division of long-term prisoners into three classes, with different ratios as to the periods of sentence to be served before a case can be brought under review, has no particular use or advantage. The practice in force in British India may be adopted, and the cases of all prisoners who have served two-thirds of their sentence including remission placed before the Advisory Board. 6

202. Accelerated release should be confined to first offenders and to those who, though they may have been convicted more than once, have not become confirmed in their evil courses. It should not be sanctioned in the case of persons convicted of systematic and organized crime or specially serious offences. 7

203. The information to be placed before the Board in each case should include the opinion of the Superintendent and of the visiting authorities, the best available medical opinion, the criminal history and antecedents of the prisoner, and the opinion of the Magistrate of the District. 8

204. The determining consideration should be the prisoner's life and character in jail, and whether there has been sufficient improvement and reformation to warrant his being shown some clemency. Police objections to accelerated release should be based on newly arisen circumstances, and not on the prisoner's local reputation or past associations. 9

SECTION B.

Conditional Release.

Paras.

205. In cases of conditional release a simple finding that an offence has been committed is to be preferred to a formal record of conviction. 11

206. A positive system under which the licensee is placed under the supervision of some qualified person or after-care organization is preferable to a merely negative system of reporting to the police. 14

207. The power of release after admonition, now limited to offences under the Indian Penal Code, may be extended to offences under other Acts as well. 16

208. The value of release on probation under Section 562 of the Criminal Procedure Code is circumscribed by the fact that it does not provide for keeping the offender under supervision after his enlargement. Legislation is required to empower courts to make supervision orders, to provide for appointing probation officers and prescribing their duties, also to authorize courts, when necessary, to vary conditions or discharge bonds, and so on. 17

209. The parole system has great advantages and should be increasingly utilized. 20

210. Well-conducted prisoners, particularly those with long sentences to serve, may be released on parole on short temporary periods not exceeding fifteen days in a year. 21

211. If conditional release on probation or parole is to be successful, there should be some previous enquiry as to its suitability for the particular individual. The person enlarged, while free to follow his ordinary life, should be required to follow the conditions imposed by the court. Work must be provided to enable him to earn a living. And, not least, there is need for some organized agency to exercise supervision over his work and conduct. 24

212. The agency of the police should not be employed for purposes of supervision over persons conditionally released. 25

213. It should be the business of the supervision officer to find employment for released persons in his charge, to protect them from interference by the police or other persons, to extend friendly advice and support in the critical period immediately after their release, and to see that the conditions imposed are faithfully observed.

PARAS

Any serious breach of these conditions should be reported by him to the court. 26

214. The desirability may be considered of co-ordinating the agencies engaged in the various inter-connected forms of social activity, through an influential non-official organization, functioning with the sympathy and support of Government and under its general control and guidance, and wielding as its instrument a band of social workers comprising both officials and voluntary helpers. 28

CHAPTER X.

Aid and After-care.

PARAS.

215. No one accused of serious crime should be without the means to put forward and prove his defence properly. Where voluntary assistance is not forthcoming, the Government should undertake the defence, whenever demanded by accused persons who are not themselves in a position to do so. 2, 3

216. The change recently made in the phrasing of Rule 408 of the Jail Manual has had the effect of diminishing the facilities available to prisoners in preparing their petitions of appeal. If a remedy is required against irrelevant or improper matter getting into jail petitions, it may well take the shape of providing qualified legal assistance where it is wanted. Meanwhile Rule 408 may be amended by the substitution of the following for the third and subsequent sentences :—

"If the prisoner is not able to write, the Superintendent shall cause his appeal to be written for him by another prisoner or by a jail official."

"A prisoner or official deputed to write an appeal shall do so at the appellant's dictation, and shall neither make any suggestions to the prisoner as to what should be stated, nor add anything to what the prisoner himself desires to have stated in the appeal." 7, 8

217. The ex-prisoner needs help most of all during the period immediately following his release. 11

218. Organized and effective aid and after-care is important both as a factor in the saving of the ex-prisoner, and as a measure aimed at the prevention of crime and the protection of society. 12 to 14

219. Cordial and harmonious co-operation between official and voluntary effort is the only effective method for dealing with the problem of the discharged prisoner. It is best secured by means of organizations consisting of both officials and non-officials, and functioning under the ægis and with the support of Government but not under its direct supervision. There must be one central organization with a number of local societies. 15, 17

PARAS.

220. The movement for aid to discharged prisoners in the Mysore State having failed to make headway owing to various reasons, it is necessary to make a fresh start under the highest auspices. A certain amount of general control over policy and methods should be retained by the Government. This will be ensured by having the Member of Council in charge of the Prison portfolio as the honorary President of the Committee of the Central Society. The presence of other high officials as well as of select non-officials will be a further guarantee of efficient administration and of a proper expenditure of funds. The actual day-to-day management may be entrusted to a small Sub-Committee consisting of both officials and non-officials. There may advantageously be two Secretaries, one of whom at least should be a young non-official with vigour and energy and possessed of real interest and enthusiasm for his task, and without too many other irons in the fire. 21 to 24

221. It is of particular importance to enlist the co-operation of employers of labour and the representatives of important industrial concerns by including them in the management. District Boards and City Municipal Councils may be invited to send representatives to the Central Association and the local or branch society. The help of communal organizations interested in social work should be enlisted at all the local centres. 25

222. At every district headquarter town there must be a branch society, with the Deputy Commissioner as its President. All branch societies should be affiliated to the central organization. All non-official visitors should be invited to join the branch society connected with the prison for which they have been appointed. In the selection of persons for the post of non-official visitor, weight should be given to the fitness of the candidate to serve on the Committee of the Aid Society, and to his ability to give assistance in the task of finding work for discharged prisoners. 26, 27

223. The funds required must be provided by voluntary subscriptions supplemented by an adequate Government grant. 28

224. It will be necessary for the Society to have under its direction a sufficient number of agents who will watch the after-career of the ex-prisoners. A few of these must be salaried full-time men, but others may be voluntary workers, but paid an allowance sufficient to meet their travelling expenses. Candidates should be

PARAS.

carefully selected and afterwards properly trained for the work and offered suitable inducements. The duties of the Society's agents may be as detailed in the Report. 29, 30

225. There should be hearty co-operation between the agents of the societies and the prison authorities. The agents must be given free entry into prison, and should be allowed access to prisoners, in order to find out what assistance they are likely to need. 31

226. The amount of gratuity standing to a prisoner's credit may be made over to the Society, to be disbursed as seems best in the interests of the prisoner. If an earning scheme is in force, the amount of wages at the prisoner's credit may also be disbursed in like manner. 32

227. Usually the Central Association has to provide board and lodging for at least a fortnight, as well as clothing to supplement the needy prisoner's wardrobe, and any other immediate necessities. In a large centre like Bangalore or Mysore, some sort of Home run by the Society will be very helpful. 33

It may occasionally be necessary to make a small grant to provide the ex-prisoner with tools when work has been found. In exceptionally deserving cases it may even be worth while to advance a limited amount of capital to set up the man in business, the money being laid out under the Society's supervision. 34

228. Employment will have to be sought, for the most part, in Government departments like the Press, in large factories, and in private industrial concerns.

The possibility may be considered of establishing a few colonies in suitable tracts where ex-prisoners, such as habituals, for whom other employment cannot be found, may be settled on land, first as labourers and eventually as owners of small plots reclaimed by them. 35, 36

229. There is reason to think that the Police do not always give a released offender, especially if he be a habitual, sufficient time to find an honest means of living. They are too prone to take action against him under the preventive sections of the Criminal Procedure Code. Such hasty and ill-judged action should be discouraged. 37

230. Aid Societies should extend assistance in all deserving cases to the wives and families of men undergoing imprisonment. 38

231. The after-care of discharged female prisoners is a problem attended with special difficulties. In cases where they have no homes or friends to go to, work must

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be found for them; and in the meantime they must be lodged in some respectable hostel. If there is a Women's Home which will receive such women and keep and train them long enough for them to be able to maintain themselves, the Society should give the institution its active support and encouragement. 39

CHAPTER XI.

Youthful Delinquency.

SECTION A.

Causes and Remedies.

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232. The causes tending to youthful delinquency are various; and the problem cannot be successfully attacked without far-reaching social and economic reform. Measures of prevention and reformation are particularly important. 1 to 5

233. The imprisonment of young persons is contrary to public policy. No one below the age of sixteen should be sent to prison. In the case of adolescents, imprisonment should be abandoned as far as practicable, and only used when other methods of correction have been applied but have failed. The majority of adolescent first offenders should be let go on probation. If this fails, or when the crime is too serious for such treatment, the offender should be in a special institution, where the conditions are altogether different from those in a prison. The small number who are not amenable to such treatment must be confined in a distinct block of the ordinary Casual Prison. 7, 8

SECTION B.

Measures of Legislation.

234. For the systematic carrying out of the necessary measures of reformation and training, special legislation is necessary in the shape of enactments dealing with Children, Borstal Schools, and the Release of Offenders on Probation. 9

235. The Mysore Juveniles Act, 1939, is open to criticism in certain material respects, and requires to be replaced by fresh legislation. Drafts are submitted of a Children Act and of Rules to give effect to its provisions. Also a Bill for the establishment of Borstal Schools, and a Bill for the Release on Probation of Offenders. 24 to 26

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236. In view of the initial difficulties, financial and other, in the way of establishing and equipping two different sets of special institutions to deal with a comparatively limited class of persons, it is recommended that action be taken at once in the matter of juveniles under sixteen, the case of adolescents being taken up later. 23

237. Some noteworthy features of the policy and scheme of legislation are touched upon. 27 to 31

SECTION C.

DISPOSAL OF CHILDREN'S CASES.

238. The full operation of the Children Act requires the following machinery, *viz.*, a Juvenile Court, a Remand Home, a System of Probation, an Institution or Institutions for Residential Treatment, and an After-Care Organization. 32

239. Charges against children should be dealt with not by the ordinary tribunals, but by special courts held *in camera*, presided over by judges acquainted with juvenile psychology and modern methods of treatment, and governed by a procedure as simple and elastic as possible. In large towns, the Juvenile Court should consist of a specially selected paid Magistrate at the head and two or three Honorary Magistrates (one of them preferably a lady). In other places, juvenile cases should be tried by the most experienced Magistrate having ordinary local jurisdiction. The Court should not be held in the same place, still less at the same time as the regular adult Court, but in some other building, preferably a Remand Home. 33, 34

240. Pending collection of information regarding his antecedents and home conditions, etc., the child should be released, or, if this is not possible, other suitable arrangements made for his detention. 36

241. A Remand Home is very necessary not only for safe custody, but also for personal study of the child. A child guidance clinic is a valuable adjunct. 37

242. The probation officer should collect all available information required by the Court. He must also be in a position to give the Court constructive advice regarding the best course of treatment to be decided upon. He should not be given more cases than he can look after properly. He must visit the child in his own home from time to

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time, and encourage visits to himself from the child. In the case of bigger boys, the probation officer is expected to assist them in obtaining useful employment as soon as possible. 46

243. Persons should be specially selected for the work of supervision. Some paid appointments will be indispensable, but they may be confined, to begin with, to the cities of Bangalore and Mysore. The services of private individuals interested in social work should be utilized, and their out-of-pocket expenses paid. 45

244. Children's Courts should maintain a close interest in the cases which have passed before them, and keep probation officers up to the mark in the work of supervision. 47

245. A child offender who has been placed under probation for one offence should not be placed again on probation for a second offence, but sent to an institution. On the other hand, it is not desirable to send a boy to a certified school merely because of a casual first offence. 49

246. Girls are less fitted for institutional life than boys; and so release on supervision is to be preferred in their case wherever possible. A properly equipped home for older girls is a desideratum. 49

247. A sentence of whipping should never be resorted to in the case of juveniles. In order to meet those exceptional cases in which no other punishment might be effective, "caning" (administered in the way of school discipline) may be retained in lieu of whipping. 50

248. To fine the offender is a convenient way of dealing with a minor offence, but regard must be had to the ability of the offender to pay. There is something to be said for ordering the parent or guardian to pay a fine, and in a suitable case to pay costs or damages by way of compensation. 51, 52

249. A sentence of imprisonment on offenders of or over fourteen years ought to be passed only in the last resort, and in respect solely of lads of so unruly or depraved a character that they can be dealt with in no other way. 53

SECTION D.

SPECIAL INSTITUTION FOR CHILDREN.

250. Provision should be made, as far as possible, for keeping and treating separately actual offenders, vagrants

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who are only potential criminals, and uncontrollable children. Small boys and small girls may live in the same cottage as the bigger girls, who will thus have the opportunity to help in looking after the smaller children. But boys who have reached the age of adolescence should be removed to a special boys' home, while girls who have any sexual abnormality should likewise be kept in a special home for older girls. 55

251. Every child must be medically examined at the time of hearing, and medical opinion as to age taken before passing of the final order. 56

252. Having regard to the small number of children that will have to be dealt with in the Mysore State, there need be only one institution of the nature of a certified school, providing for both industrial and agricultural training. This should be located in fairly open country, where a sufficient extent of land suitable for farming can be procured, but near enough to the outskirts of a city to facilitate supervision and inspection as well as to provide eventual employment for trained lads in industrial occupations. Particulars are given of a site within seven miles from Bangalore City, fulfilling the necessary requirements and (in the Committee's opinion) excellently adapted for the location of the Certified School or Children's Home, and also, later on, of a Borstal School when it is decided to establish one. 58, 59

253. The new institution should be brought into being in an environment befitting its character and function. Endeavours should be made to approximate its conditions to those of an ordinary school. The buildings for residence should be planned more or less on the cottage system. 60

254. The total cost of buildings and equipment, as estimated by the Committee, is not likely to exceed one lakh. The scale of establishment that will be required to run the Home is indicated. The recurring cost in the initial years is estimated at about Rs. 9,000 per annum. 61 to 67

255. It is considered unnecessary to have different grades of Certified Schools. All children will be received in the Home, but they must be divided according to age into three groups, each group being allotted separate cottages. Two cottages, one in front of the other, will make one unit with a matron and a housemaster. 68, 69

256. The medical care of the children must have regard both to the preventive and to the curative side.

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Arrangements should be made for the periodical weighing of children affected by venereal or other infectious or contagious disease, for the disinfection of clothing, and so on. Case sheets should be maintained for each child, healthy or sick. 70

257. Every child should be given four baniyans, two shirts, and two towels for a year, in six-monthly instalments. The bedding may consist of a carpet, a cumbly and a cotton blanket. 71

258. The children will do their turn in the kitchen along with the paid cook in preparing the daily meals. They will also do a lot of household work, such as gardening, sweeping, dusting, washing, ironing and manual work. 72

259. The daily routine may be on the lines detailed. The apportionment of time among the various classes is outlined. 73, 74

260. Literary education will be primary in character, and cover instruction in all the prescribed standards. In special cases higher education may be arranged for in some outside school in the City. Teaching will be through the child's mother tongue; but elementary English should be taught in the two higher standards. 75

261. Provision should be made for teaching the inmates some one or more of the following groups of crafts; namely, Agriculture, Textiles, Wood and Metal work, Leather work, Miscellaneous, and Elementary Building construction. In the case of girls, instruction will include weaving, needlework and embroidery, in addition to the elements of domestic science. In the selection of crafts the individual aptitudes of the children and their future interests should both be consulted. The courses of instruction should be so framed as to train the hand and eye in the use of ordinary tools, and to develop the general skill, intelligence and alertness of the pupils, in other words, their aptitude for industrial work generally. 76, 77

262. All cloth required for the inmates should be manufactured in the Home. The tailoring class will be in two sections, one for drawing and the other for learning practical work on the sewing machine. The clothing of the inmates will be prepared in this section. Outside orders may also be executed for cloth, furniture and other articles manufactured in the Home. 78

263. The boys employed on farming will work in batches of 25 each in two shifts, in the morning and in the evening. 79

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264. Moral instruction should be imparted in the educational classes by the regular paid teachers. Magic-lantern lectures on health and other subjects of utility or interest will be arranged for at short intervals, if necessary by engaging outside agency. In addition, debates will be organized once a week or fortnight among the inmates. 80

265. Scouting, ambulance and first-aid should form a regular part of the system of training. Band music will be taught to select pupils. 81

266. Open air games, camps and outings should be recognized features of the institution. The children should be occasionally taken out for free cinema shows and to visit places of interest. 82

267. Boys who are industrious and well conducted will earn a gratuity of eight to twelve annas on an average per month, half of which they may be permitted to expend in buying requirements for themselves. 83

268. The maintenance charges of 300 children, calculated at Rs. 100 per head per year, are estimated at Rs. 30,000 per annum, but the charges in the early years will be much smaller. Also, there are other items that have to be set off. 84

SECTION E.

SPECIAL INSTITUTION FOR ADOLESCENT OFFENDERS.

269. A special institution will become necessary for adolescent offenders, or youngsters between the ages of sixteen and twenty-one, after the passing of the Borstal Schools Act. 85,86

270. The double object of reformation and training cannot be properly carried out unless the term of detention in the special institution is sufficiently long. The minimum period must be three years and the maximum five. 87

271. The discipline must be a combination of mental, moral, physical and industrial training of a strenuous kind. 88

272. Literary education must be compulsory, and imparted through the vernacular. It will include all the prescribed elementary standards, and may be carried even beyond in exceptional cases. 89

273. The regular education may be supplemented by lectures on educational subjects, hygiene, rural uplift, etc. For those more advanced, a library should be provided, so that the habit of reading may be encouraged. 91

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274. Religious and moral instruction should receive special attention. 92

275. Vocational training must have as its aim to fit the pupil for life outside. Each pupil should devote six hours daily for training and labour combined. 93

276. Some of the industries taught may be expected to be profitable, and tend to economize the cost of running the institution. 94

277. Special attention should be paid to physical culture, games and recreation. 95

278. Each inmate should be given once in six months a white cotton cap, two cotton shirts, two cotton chaddis or shorts, and a pair of towels. A cotton-woollen shirt or jacket may be issued during the cold season. In addition, he may be provided with a special uniform for sports and parade. Khaki suits need be given only to the monitors. 96

279. The bedding may consist of a carpet, two cumblies or blankets, and one bed-sheet. 97

280. Daily bathing should be insisted on, usually at the end of the day and just before the evening meal. Washing soda may be issued for washing clothes. Soap may be allowed to be bought out of private money. 98

281. The inmates will do all the cooking. The daily diet may be as indicated in the Report. 99

282. The routine will comprise physical training, six hours' work in workshop or outdoor party, and two or three hours of school or study. It should be so arranged as to keep the boys suitably engaged right through the day. A model time-table is outlined. 100, 101

283. In order to encourage self-reliance and to recognize industry and special merit, it is advisable to introduce a regulated system of grades carrying progressive freedom and privileges. 103

284. The "House" system should be adopted with a view to develop corporate spirit and to facilitate individual treatment. The House system necessarily implies associated accommodation in blocks. Cells are out of place except in the case of an intractable lad, or for purposes of segregation. 102, 104

285. The inmates may be permitted to go on parole or on leave for about ten days in the year. They should be allowed to interview their parents or friends freely, and to write occasionally to their parents. 105

286. The District Medical Officer should be the chief Medical Officer of the School, and as such exercise

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supervision over the purely medical side of the work. There must be a hospital in charge of a full-time Sub-Assistant Surgeon, living on the premises, with a compounder to assist him. Nursing should be done by a few of the inmates trained for the work. All serious cases should be sent to the general hospital. From six to ten beds should be provided in an in-patients' ward. All the inmates should be medically examined once a week, and weighed once a fortnight. A medical record should be kept for each inmate. 106

287. It is necessary to maintain an individual record (in the form of a register) containing particulars of each inmate, his educational and vocational training, his physical or athletic progress or activities, and other details. 107

288. The staff for a Borstal School may be on the same scale as suggested for the new Children's Home, but with the omission of the matron and the cook, and the addition of two teachers and two vocational instructors, and of a band-master or instructor in music. The guarding staff of peons will also have to be increased by two or three men. The members of the Borstal School staff may be included in the same cadre as those of the Children's Home. 108

289. The recurring cost of establishment is roughly estimated at about Rs. 9,000 per annum in the earlier years. The cost of maintenance of the inmates, including food, clothing and accessories, may be put at Rs. 100 per head per year. 109

290. The summary powers of punishment vested in the Superintendent should be used sparingly and with restraint. Punishment should ordinarily take the form of a reduction in grade and the deprivation of privileges for stated periods. Further punishments would be the imposition of some form of hard extra drill or physical exercises, penal diet, labour, or separate confinement for short periods. Corporal punishment should be rarely, if ever, resorted to, and then only in the manner of school discipline with the birch and not the cane. For all ordinary offences it may be well to try the offender by a Court of Honour consisting of the boys themselves. 110

291. The emphasis must be shifted from punishment or repression to constructive individual treatment. What matters most is the personal influence of the staff, from the Superintendent downwards. The practice should be developed of officers working with the boys and not just standing over them. 110, 111

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292. A special institution for girls, if and when established, should be placed under female superintendence. The general scheme of discipline and training may be more or less on the lines suggested for boys' institutions. In addition, all the girls must pass through a regular course of instruction in domestic duties, including cooking, sewing and laundry work. All must take up some form of handicraft, the proceeds of which may be sold, and the profits added on to a general fund for the benefit of those who are well-behaved. The training of the inmates must mainly be for a domestic life outside. 112

SECTION F.

CONTROL AND AFTER-CARE.

293. The balance of advantage is in favour of co-ordinating the work of the two classes of special institutions—for children and for adolescent offenders—under the same general administrative control, namely, that of the Inspector-General of Prisons, with the designation of *ex-officio* Chief Inspector. The Department of Public Instruction should be assigned definite functions of inspection and advice. 115, 116

294. In the case alike of juveniles and of adolescents who are released, an organized system of after-care is of extreme importance, not less so than in the case of adult prisoners. Such assistance is based in both cases on similar principles, and can be carried out under the auspices of one and the same organization, but in different sections or branches of it. But where sufficient resources in men and material are available, it is preferable to have a separate Children's Aid Society. 119

295. The organization should take the form of a strong Central Society working through local Associations. An important part of its functions will be to find suitable openings for released lads. In addition, it should require its agents to keep in touch with discharged pupils, to visit them regularly, and to give them guidance and assistance in their after-career. 120

296. The work of a District After-care Association is outlined. Its management should be framed on a fairly wide basis, and be representative of popular opinion. The

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non-official element should predominate, and a few ladies should be included. The choice of members of the executive is most important. 121, 123

297. Directly a District After-care Association is in a position to open a Remand Home and employ a Probation Officer, it should become eligible for a grant-in-aid from the Central Association, amounting to one-half of the salary expenses of the Probation Officer, and financial assistance towards the rent charges of the Home. 122

298. Probation officers owe a double allegiance to the local Association and to the Court. Such an arrangement need not lead to any difficulty, for both should function in close co-operation, and under Government control through the District Magistrate. 124

CHAPTER XII.

Recidivism.

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299. Recidivists fall into two fairly well-defined classes, which require different treatment. 1

300. As regards the petty recidivist, the treatment in prison, disciplinary and reformative, should be directed towards developing his intelligence and strengthening his character, teaching him habits of industry, and training him for some form of honest livelihood after release. The introduction of machinery into prison factories, and the instruction of prisoners in mechanical weaving and spinning, will give a certain number a trade that they may follow after release. 2

301. It is the case of the confirmed or professional recidivist that presents the greatest difficulty. A new form of sentence has been devised for such cases in England, known as "Preventive Detention". Apart from their length, sentences of preventive detention are carried out more leniently than other prison sentences; for preventive detention is not punitive in character, but merely intended for the protection of society. In spite of defects and drawbacks, the system of Preventive Detention is a most notable reform, and there is a real need for some form of it in this country. 3 to 11

302. The proportion of really incorrigible recidivists in confinement at any one time is not large. In the absence of a separate institution for their detention, persons of this type may be segregated in a special criminal settlement, much in the same way as criminal tribes, and under conditions of discipline, training, labour, dietary, etc., conformable to the features of the preventive detention system. Such a settlement would be practically self-supporting after the initial outlay, and it would also be a better training for free life than detention in even the most up-to-date prison. The scheme may be at first on an experimental basis, and afterwards made permanent if the results are favourable. 12

303. The system of Indeterminate Sentences seems to have great theoretical possibilities in the treatment of confirmed recidivism. It has been strongly advocated by many and is now being tried in America. But the experiment has not been sufficiently long in operation for its results to be properly weighed and tested. 13 to 17

CHAPTER XIII.

Criminal Tribes.

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304. The proper control and reclamation of the criminal tribes presents a serious problem in criminal administration. The strictest surveillance on the part of the police has failed to repress the ingrained criminal habits of generations, any more than the award of repeated and increasingly severe punishments has acted as a deterrent to the perpetration of organized crime. The indefinite continuance of purely repressive measures only tends to perpetuate and harden the type, but cannot rescue the classes concerned from their past heritage of evil tendencies. The sooner a policy of unconstructive repression gives place to a policy of systematic reclamation, the better are the chances of permanent success. 2 to 7

305. Such a policy has already been initiated by Government in the endeavour to prevent abuses of the provisions of the Criminal Tribes Act regarding registration. Satisfactory results have so far attended the system of holding in "abeyance" the restrictions about compulsory reporting. 8, 9

306. There are a few directions in which the working of the law requires to be modified or improved. A quasi-judicial enquiry, with sufficient opportunity to those affected to show cause to the contrary, should be held before a tribe is notified under the Act as criminal. The need for a formal inquiry is even more imperative where individuals, and not tribes or gangs, are concerned. Registration should not be enforced indiscriminately, but confined to hardened or dangerous criminals or those known to have pronounced criminal tendencies. The restrictions incidental to registration should be progressively reduced until they cease altogether at the end of five years. Children below sixteen years undergoing instruction should be exempted from liability to registration. Section 24, which renders a member of a criminal tribe liable to excessively severe penalties in the event of a subsequent conviction for certain offences, should be repealed. It should not be assumed that a man is necessarily a habitual criminal because he is a member of a

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criminal tribe. He may need special treatment of a reformative character, not however as an individual criminal, but as a member of a group or class. 10, 11

307. To a large extent, economic causes have been at the bottom of the criminality of the tribes in question. One of the chief elements of a policy of reclamation must be to ensure for these communities a reasonable degree of economic comfort in the shape of adequate and remunerative work. They must be induced and even compelled to give up their roving habits, and to settle down in defined areas where regular means of livelihood can be found for their adult members. As far as possible, unobjectionable features of tribal and family life should be maintained. At the same time, the younger members must be taken in hand at a sufficiently early age, removed from their criminal surroundings, and educated and brought up to honest ways of livelihood. Not least important, the whole process of reclamation should be conducted under proper, systematic and sympathetic supervision. 12, 13

308. It is quite essential to provide a regular settlement for those members of the criminal tribes who will be affected by the issue of a notification under Section 12. A settlement should be viewed more or less as a controlled location or encampment, of which the primary object is the reclamation of the people concerned by a combination of economic, educational and social arrangements. The ultimate aim is the absorption of the settlers into the general body of the community. 16

309. Two settlements will probably be sufficient for all the tribes that may have to be dealt with in the Mysore State. 18

310. Every settlement must be enclosed with high fencing to prevent escapes. The more troublesome members will be housed in an inner enclosure fenced with barbed wire. The space included within the settlement must be sufficient for all requirements. 19

311. The question of the proper location of a settlement is extremely important, and turns to a large extent on the availability of sufficient employment, regular and remunerative, for the settlers as a whole. 20

312. Purely agricultural settlements are difficult to form and maintain, and have generally proved a failure. It may be that there is scope in this State for a modest experiment in this direction. If one is decided upon, it will be necessary to begin by investigating the suitability

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of the locality from the health and sanitary points of view, and also to consult the convenience and, as far as may be, the wishes of the tribe or gang proposed to be stationed therein. The settlement should be established where there is a sufficient area of good cultivable land and adequate facilities for irrigation, preferably under one of the main irrigation channels. The people of an agricultural settlement will have to be started on their career of settled life with suitable and sufficient material aid, in the shape of assignments of small plots of land, together with cattle and implements, a stock of seed, and a year's provisions. Subsidiary industries will have to be found for the men during the off-seasons and simple occupations for the women. 20, 21

313. The prospects of successful development are greater in the case of an industrial settlement. Expediency dictates that the settlement to be established must be in the vicinity of an important centre of industry. The feasibility may also be considered of forming temporary settlements for members of the notified tribes in connection with Government or local works on a large scale, and of their being subsequently converted into or absorbed in a more permanent settlement. 22

314. While an industrial settlement cannot be altogether self-contained, there must be provision for employing some portion at least of the superfluous labour within the settlement in simple industries, building work, gardening and cultivation, and in unskilled employment outside. 24

315. For the younger part of the population, vocational training is of the highest importance; but it has to be limited to industries actually carried on within the settlement or free colony. Lads may also be apprenticed outside the settlement. The benefit of the manual training classes is not to be confined to boys. The girls too must receive regular instruction in such subjects as sewing, needle-work and spinning. A nursery class, where the older girls can be taught to look after children below five years when their mothers go out to work, will be distinctly useful. 25, 26

316. When all is said, there is only one effective way of dealing with the difficult problem of hereditary crime. Instead of exposing the young to the corrupting influence of constant association with adults, it may be far better to take the children away from their parents after a certain age, and to place them in home-like surroundings

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in institutions where they can be brought up under civilizing influences, properly educated, and taught honest methods of obtaining a living. The power to take the necessary steps to effectuate such a policy is already reserved by Section 17. 27

317. Apart from such a policy, none of the available measures of reclamation is of greater value than education under suitable conditions. Education must be compulsory for all children between the ages of six and sixteen. Instruction need not ordinarily be carried beyond the primary stage; but boys and girls of exceptional promise must be helped to carry their studies further. There must be day schools within the settlement for the majority of the children, and night schools for those who have to go out for work. In addition it should be possible to arrange for a certain number of the more advanced pupils being admitted into outside local schools, Vernacular or English. Children attending school may be provided with neat and inexpensive uniforms. The education of the adult population must not be neglected. 28

318. Sports and recreation are a positive contribution to the reformative work of a settlement, and should be a regular feature of settlement life. Both the settlers and the staff must be encouraged to take active part. Provision should be made for a gymnasium, for scout training, for musical entertainments, and for discourses and lectures. 29

319. Permission to a family to leave the settlement after the minimum period of five years should only be given if the conduct of all its members without exception has been satisfactory. Release from the settlement must usually be on probation. Persons whose conduct has been uniformly good should be eligible to have their registrations cancelled. 30

320. The health of the community must be well looked after. A small dispensary must be attached to the settlement and equipped with the usual medical requisites. A Government Medical Officer may be deputed, even if only for part-time duty. 32

321. The right policy, so far as criminal settlements are concerned, is one of absolute prohibition, and the removal of all opportunities and temptations in the shape of drunkenness or gambling. 33

322. Attached to every colony and settlement there must be a co-operative credit society for the benefit of the community. All possible facilities should be given to

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members of criminal tribes to own property and to make and invest savings. 34

323. The conduct of local affairs will be facilitated by utilizing the services of the more staid and trustworthy men as members of a panchayat, vested with the power to dispose of minor matters, and to recommend action to the authorities of the settlement in other cases. Some form of privilege or reward may be devised for those who perform their duties on the panchayat conscientiously. 35

324. Though the presence of a police patrol outside a settlement may be necessary for the protection of property in the neighbourhood, it is not desirable to have the police within the settlement. It should ordinarily be possible to enlist the services of trustworthy members of the settlement or colony to act as watchmen or guards. 36

325. It is not easy, at this stage, to make any accurate forecast of the probable expenditure of organizing and running a new settlement. Assuming that the land required will be freely available, the initial expenditure will comprise the cost of enclosing it, and putting up a few inexpensive buildings for office, school and hospital purposes, and to serve as worksheds; it must also include advances of subsistence money to the first settlers and of materials for huts to be constructed by themselves. It will be necessary to entertain a small establishment, the particulars of which are detailed. 37, 38

326. It will not be expedient to entrust the management of a Criminal Tribes Settlement to any private agency, religious or secular. The control of criminal tribes' settlements in the State must undoubtedly remain under Government agency, their administrative charge being assigned to the Inspector-General of Prisons. The preventive and punitive, as distinguished from the reformative, aspects of control will fall within the purview of the Police Department. 39, 40

CHAPTER XIV.

Prison Administration.

SECTION A.

ADMINISTRATIVE CONTROL OF PRISONS. PARAS.

327. The general control of the prisons in the State involves many matters requiring close and continuous supervision and study, and carries with it a grave responsibility. The present arrangement, under which the control of prisons is only an incidental business for the spare time of an officer with other major functions to perform, is anomalous and unsuitable. It is to be anticipated that, following the inquiry undertaken and the recommendations made by the present Committee, many and varied changes will be introduced. It is in the best interests of the Department that there should be from the very beginning a full-time head who can devote the needful attention, care and energy to the working out and putting into operation of the measures sanctioned by Government. There is the further circumstance that the control of the special institutions for children and adolescent offenders, and of the reformative side of the reclamation of criminal tribes, will also fall within the charge of the head of the Prisons Department. The officer selected for the post of Inspector-General should be of a status above that of a Deputy Commissioner. 1 to 10

328. The Senior Surgeon as such may be invested with the power of inspecting and advising on the medical side of the work of all penal and reformatory institutions. 11

329. Even with a full-time Inspector-General, it will be desirable to give him the help of a qualified Assistant, preferably one with some experience as Superintendent of a Central Jail, who has studied prison problems and has a sound working knowledge of actual prison conditions. Besides attending to office work and inspection duties, he may be entrusted with the supervision of the industrial concerns of prisons. He will also be available for charge of the current work of the Inspector-General whenever the latter goes on leave. It should be one of the duties

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of the Assistant to maintain the Mysore Jail Manual up-to-date, to see that all additions and alterations of Rules sanctioned from time to time are duly incorporated in the Manual and also regularly communicated to subordinate authorities, and to keep himself in touch with reforms effected and proposals for reform under consideration in other parts of India and elsewhere. 12, 13

330. It is desirable to have general uniformity as between Mysore and British India in large matters of principle and policy touching prison administration, even though some divergence of practice in matters of detail may be inevitable. It would be a great advantage if the Inspector-General of Prisons in Mysore were enabled to take part in the periodical conferences held by corresponding officers in other parts of India. 15, 16

SECTION B.

MANAGEMENT AND SUPERVISION.

331. Selections for the place of Jail Superintendent must depend solely on individual fitness. The purely administrative appointments in the Department must not be treated as the preserve of any particular profession or walk of life. Recruitment must be by a process of discriminative selection from a wide range. The proper management of a prison is a difficult and complex matter, and requires special training. 17 to 19

332. The combination of administrative and medical functions in one and the same person as Superintendent does not ensure either administrative efficiency or the needs of adequate medical attention to prisoners. The balance of advantage is decidedly in favour of a separation of functions as between a non-medical Superintendent and a medical officer of equal official status. 21 to 23

333. There should be a whole-time Superintendent for each Central and District Jail. 20

334. Officers appointed as Superintendents should be well conversant with the scientific as well as practical aspects of penology, and have a sufficiently wide acquaintance with the penal systems and methods in force in India and in foreign countries. Before any person who has not had previous service in the Prisons Department

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is appointed as a whole-time Superintendent, he should be placed for at least six months under a senior Superintendent of a Central Jail, and should there receive a thorough training in all branches of prison business. This period of training should count towards the period of probation which all officers newly entertained should undergo before they are confirmed in their posts. The rules relating to study leave should be so extended as to enable a Superintendent to devote some period of any leave he may take out of Mysore to the study of prisons and connected questions elsewhere. 25 to 27

335. The higher Prison service will necessarily be a self-contained one. In addition to the full-time Superintendents of the Central and District Jails, the Assistant to the Inspector-General will be an officer of the same status. All these appointments may constitute a single cadre in three grades, with an appropriate time-scale for each, promotion from one grade to the next above being determined by vacancies and merit. The lowest grade may have three places, on a salary of Rs. 200—10—300 each, intended for officers appointed to the charge of the District Jails. The next higher grade may likewise have three places, on Rs. 350—10—450 each, for the Superintendents of the two Central Jails and the Assistant to the Inspector-General; but to prevent undue stagnation and as an encouragement to meritorious service, an officer who has put in not less than five years on Rs. 450 may be specially selected for promotion to a preference grade carrying a salary of Rs. 500—25/2—600. Free quarters must be provided for all officers in administrative charge of prisons. 28, 29

336. In the case of the sub-jails (till now called Magisterial lock-ups) at district headquarter stations, the administrative charge should be separated from the medical functions, and entrusted to one of the First Class Magistrates at headquarters as Superintendent. The medical side of the work should be attended to by the District Medical Officer or, in his absence, by his next senior Assistant, with a suitable allowance. 31

337. As regards the sub-jails in the mofussil stations, it is preferable that the administrative charge should be vested in the Special Magistrates rather than in the Special Sub-Registrars. The work of supervision will be facilitated if the Sub-Jail is located in a building attached to the Special Magistrate's Court or in its near vicinity.

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The Sub-Divisional Magistrate should usually be the Superintendent in charge of the Sub-Jail of his Sub-Division. During his absence from the station, some other Magistrate may act as Superintendent; if there is none, the senior Medical Officer of the station may act as Superintendent, in addition to his other duties. 32, 33

338. The existing arrangements in regard to the higher supervision and control of sub-jails may continue, but with the earlier nomenclature restored, under which authority is vested with "the Magistrate of the District," instead of the Deputy Commissioner. The principal points on which information should be furnished, in the reports to be submitted to the Inspector-General regarding sub-jails, are detailed. 34, 35

SECTION C.

EXECUTIVE AND TECHNICAL STAFFS.

339. The personnel of the prison staff is of vital importance from every point of view, and particularly from that of any improvement in the prison system. Men must be carefully selected and specially trained, and their conditions of service must be good. 38

340. The Jailor and the Deputy Jailor constitute the chief executive staff of a prison; and upon them as much as on the Superintendent himself depends its efficient management. Recruits for these posts should invariably be University graduates. Those selected should undergo a preliminary training in the details of prison management in one or more of the State prisons. They may, with advantage, be deputed to visit some of the prisons in the neighbouring provinces. They should also go through military training for six months, and be required to pass the local tests in Accounts (Lower), Criminal (Higher), and Prisons. 40 to 42

341. A course of study in certain technical subjects should be arranged for the benefit of prison officers of the superior grades, including Superintendents, Jailors and Deputy Jailors. The course should cover the essential principles of the sciences dealing with crime, punishment and prison management, the scope of corrective and reformative measures, and the broad principles of psychology and mental treatment.

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342. The pay of a Jailor at present is Rs. 150-5-175. The maximum may be raised to Rs. 200, to be reached in the ordinary course in ten years. The appointment of Jailors should be gazetted. They may be given the additional designation of *ex-officio* Assistant Jail Superintendents. Every endeavour must be made to reduce the amount of the Jailor's clerical work, so that he may spend a larger portion of his time outside his office and in the direct executive control of the Jail. 45 to 47

343. The Deputy Jailor's grade will form a training ground where officers can learn the duties of the Jailor, and be tested in their fitness to take the Jailor's work as vacancies occur. The pay may be fixed at Rs. 75—5—125. In the district jails the Deputy Jailor should be required to perform the clerical duties of the jail, in addition to those which devolve upon him as the Jailor's executive assistant. 48, 49

344. There is not much object in treating the jail clerical staff as distinct from the executive, with a separate system of recruitment. In a small service like this, it will be an advantage to have a single superior staff recruited and trained in the same manner, and available for both clerical and executive duties as occasion may demand, and to include them under the common designation of Assistant Jailors. Only graduates of a University should ordinarily be selected, as otherwise they will not be eligible for promotion to the higher post of Deputy Jailor. The pay of an Assistant Jailor may be fixed at Rs. 45—5/2—70. 50, 51

345. It will be necessary to have some officials with lower qualifications and on smaller pay to attend to such purely clerical work as copying and typing; these may be included in the Head Warders' grade, with a salary rising from Rs. 25 to Rs. 35 by annual increments of one rupee. The minimum educational qualification for inclusion in this grade should be the Matriculation or S. S. L. C. 52

346. The subordinate medical staff must comprise at least one whole-time Sub-Assistant Surgeon, who may be given an allowance of Rs. 30 as compensation for loss of private practice. Where the average daily population exceeds 300, it may be necessary to have an additional Sub-Assistant Surgeon. The compounder may be allowed a salary of Rs. 5 in excess of the rate paid in the local hospital, as a set-off against the disagreeable features of jail service. The Sub-Assistant Surgeon, like all other

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subordinates in the jail, should (except in strictly professional matters) be subject to the authority of the Superintendent and the Jailor. 53, 54

347. A system of separate recruitment of medical subordinates exclusively for jail service is inexpedient. A fixed term of years may, however, be prescribed for jail duty, during which the official selected will remain entirely under the disciplinary control of the Prisons Department, and draw an allowance as compensation for loss of private practice. As a rule no Sub-Assistant Surgeon should be posted to jail employ until he has completed at least two years' service. The deputation should be for a definite period, which might be from three to five years, and during that period the official selected should not be withdrawn without the Inspector-General's consent. No medical subordinate should ordinarily be liable to be called upon to serve a second term in the Prisons Department. 55, 56

348. It is desirable to arrange for the periodical examination of prisoners in jail by a qualified mental expert. A full-time psychologist will not ordinarily be required unless the number of persons to be regularly examined in a jail exceeds a hundred a month. 59

349. The importance is stressed of securing an adequate technical staff, competent to train the prisoners to earn a living after discharge. The Chief Industrial Instructor in the Central Jail should be a qualified man, who has received a thorough training in the special industries carried on in jail. He may preferably be an officer lent from the Industries Department, in which case he should be given an allowance in addition to his departmental salary. Otherwise he may be paid according to qualifications; a suitable time-scale would be one of Rs. 100—5—150. There should be under the Chief Instructor one trained instructor (or foreman) for each of the three main industries, on a salary of Rs. 35—1—50. The better skilled prisoners will continue, as heretofore, to work as *maistris* under the paid instructors or foremen. The Store-keeper of the Industrial section should, in addition to being in charge of all raw materials and manufactured goods, also maintain the accounts of the section. He may be assisted by one or more accountants if the transactions are too heavy, and he will work under the general control of the Superintendent. His pay may be fixed at Rs. 50—2—80. 60 to 63

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350. There must be a drill instructor for training the executive staff; he may by preference be a retired military officer, but one not past his prime, and he must be capable of being employed on other work when not engaged on drill duty. 64

SECTION D.

WATCH AND WARD.

351. The warders are the back-bone of the prison service. But their duties are rigorous, their salaries low and prospects unattractive; and the grade is as a rule filled with men of an indifferent stamp. The whole level of honesty and efficiency in the subordinate service needs to be raised. 65 to 70

352. The scale of pay granted to the warder establishment should be revised, and placed on a footing somewhat better than that given to the police. It will be advisable, to prevent undue stagnation, to fix a time-sale, which may rise from Rs. 15 to Rs. 25 by annual increments of one rupee. No person should be appointed as a Warder who has not passed at least the Middle School or Lower Secondary Examination in English, and does not possess a good conversational knowledge of Kannada and Hindustani. Other essential qualifications are robust health, a sound physique, and good moral character. 71, 72

353. Warders on reaching Rs. 25 should, if they pass a qualifying test, be styled Head Warders, and put into a special grade of Rs. 25—1—35. There should be a selection grade of Chief Warders on Rs. 40, with eight places. These places may be filled by Senior Head Warders with educational qualifications not below the Matriculation or S. S. L. C. If they are graduates, and otherwise found suitable, they should be eligible for promotion as Assistant Jailors. 73, 74

354. Instead of a house rent allowance, the warder staff should be provided with free quarters quite close to the jail. 75

355. The strength of the warder staff in the larger prisons must correspond to that of the prison population. Subject to variations to suit local circumstances, a convenient working rule is to have at least one Warder for

every ten prisoners up to 100, and one for every fifteen beyond that number. In addition, there must be a reserve of ten per cent of the ordinary strength to meet cases of leave, sickness, emergencies, and extra duties. The number of Head Warders (including Chief Warders) should ordinarily be one for every ten warders on the staff of each prison. A similar ratio may be adopted in the case of the wardresses required for the female ward of a prison. 76

356. For a sub-jail the minimum staff required cannot be less than two warders, and an experienced Head Warder. The services of some respectable woman should be engaged to perform the duties of female warder, when female prisoners are confined in the sub-jail. 77

357. Men appointed as warders for the first time should be on probation for six months before confirmation. All warders should go through a course of training before being posted to a jail for duty. This course should include instruction in the provisions of the Jail Manual, the guarding of prisoners and buildings, drill, physical training, musketry, etc. There should be a training school for the subordinate Jail staff. Till such an institution is started, candidates recruited in Mysore should be sent to the training schools in some of the British Indian provinces. It will be useful to place in the hands of all warders a detailed catechism in the vernacular, dealing in simple language with their duties and functions, the standard of behaviour expected of them, and the action to be taken in emergencies. 78 to 80

358. The system of utilizing the services of well-conducted prisoners as warders has worked well, and should be continued under suitable restrictions and conditions. Convict officers should, however, be used to assist and supplement, not to replace, the paid staff. The employment of convict warders outside the barracks for guarding prisoners at night is open to objection and should be discontinued. Paid warders should be appointed for night patrol work. No convict officer should have independent charge of any file, gang, or other body of prisoners, or should have independent power to issue orders to prisoners, but there should always be a paid officer in superior charge. Convict officials drawn from the class of casual offenders should not be employed in a jail or part of a jail reserved for habitual offenders. On the other hand, no habitual should be employed as a

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night-watchman in any non-habitual barrack. Convict officers should have separate quarters cut off from the other yards in the prison, so that undue familiarity with the ordinary convicts may be avoided and discipline better maintained. Convict officers should not be made to wear fetters or ankle-rings. Convict officers should be paid a higher rate of gratuity than at present. 82 to 87

359. Women convicts are not now eligible for promotion beyond the grade of convict overseer. There is no reason why in really suitable cases they may not rise to the grade of convict warders. 88

360. In taluk sub-jails, where there is an adequate warder staff, the police should not be employed for guarding or any other purpose, except as an emergency measure during a serious outbreak in prison, when the regular warder guard may require reinforcement. Undertrials may be escorted to and from the Court, under its warrant, by policemen totally unconnected with the particular case. 89

SECTION E.

MISCELLANEOUS.

361. No official, whether in the executive or in the clerical service, should ordinarily be required to work for more than eight hours a day. In the case of warders ten hours' work should be the maximum; ordinarily a warder's duty should be limited to eight hours. 90

362. Superintendents of jails should be empowered to reward specially good service by money gifts, medals and good service entries, according to circumstances, each such case being regularly reported to the head of the Department. A sum of Rs. 200 in the case of a Central Jail, and Rs. 50 in the case of a District Jail, should be allotted every year for this purpose. 91

363. Quarters suitable for family life should be provided for members of the staff in close proximity to the prison. Medical officers, in particular, should be provided with quarters close to the jail, so that their services may be immediately available in cases of sudden illness or other emergencies. 92

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364. Adequate facilities for recreation and social converse should be provided for the Prison staff. The same may take the form of a club-room supplied with papers and with materials for in-door games, and of a playgound for out-door games. All officials should be required to contribute a small monthly subscription ranging from a rupee to four annas according to salary. 93

CHAPTER XV.

Visitation of Prisons.

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365. The plan of appointing persons, official and non-official, to serve as visitors to jails is a valuable part of the system of prison administration. But the present arrangements in the State in this respect cannot be said to fulfil their purpose adequately. No person should be appointed as non-official visitor unless he is known or believed to have some definite aptitude or qualification for the position. Members of executive committees of the Discharged Prisoners' Aid Society would be particularly useful. Selection should be made solely on a consideration of personal fitness, and ability to co-operate and work harmoniously with the prison officials, and not on grounds of social position, wealth or influence, nor with a view to party or community representation. 1 to 4

366. As regards official members, the appointments must necessarily be in virtue of their office. And in order that all departments concerned should be properly represented, the total number must be fairly large. In the case of the non-official visitors, their number must have some reference to the class and strength of each jail. The number of gentlemen visitors may be fixed at ten for the Central Casual Jail, and eight for the Central Habitual Jail. Five will suffice for each of the three District Jails. The inclusion of a few ladies will be extremely desirable where there are female prisoners, their visits of inspection being confined to the female side of the prison. There may be three lady visitors for each of the two Central Prisons, and two for each District Jail. 5

367. The appointments of non-official visitors should be for a fixed term of three years. But a visitor who has shown interest in his work and has proved his usefulness in the past ought to be re-appointed so long as he is fit and willing to serve. On the other hand, one who is usually slack in attendance, or has too little leisure to spare for the work, should be replaced by a more energetic person. 6

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368. The Rules in force provide only for the appointment of individual visitors, and do not contemplate the idea of the visitors, official and non-official, functioning together as a body on a regularly constituted Board. Action in this latter direction is distinctly desirable in view of the importance of the functions to be performed, their proper co-ordination, and the need for a certain continuity of policy. The existing Rules should be replaced by a fresh set of Rules providing for the formation of a Board of Visitors for each prison, defining its composition, regulating its procedure, prescribing the functions of the Board and of individual visitors, and indicating in general terms the action to be taken on their remarks. A draft is submitted incorporating the needful provisions. 7 to 9

369. The participation of visitors, official and non-official, is of much value to the authorities of the jail, and should, therefore, be welcomed and encouraged, and not resented. The Board of visitors is expected to be a living link between the Government and the prison authority, concerned not with administration but solely with inspection, recommendations and reports. It will be well for visitors individually and as a Board to realize that their true function is not one of mere criticism or the inviting of complaints against the prison authorities, but cordial co-operation with them in getting defects remedied and in bringing to notice the legitimate grievances of prisoners. They must do everything on their part to create an atmosphere of cordiality and contentment. 10 to 13

370. The functions of individual visitors are confined mainly to interviewing prisoners and ascertaining their wants and grievances, with a view to having the same met by the prison officers themselves where possible, and in other cases placing them before the Board for its consideration. No obstacles should be placed in the way of prisoners making any representations they choose, and no punitive action should ordinarily be taken without the concurrence of the visitors, even when the complaints are found to be frivolous or unfounded. Interviews should not be too hurried or superficial. If a visitor thinks it preferable, he should be at liberty to see a prisoner and hear his grievance, unaccompanied by, but not out of sight of, a prison official. 14 to 16

371. Visitors should be given every facility to inspect the barracks, the cells, wards, work-sheds and other

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buildings, the kitchen, the food, the store, the vessels, the clothing and bedding in stock and in use, and the sanitary and other arrangements of the prison. They should be encouraged to make suggestions and recommendations, which should be sympathetically considered by the prison administration. 17

372. The annual report of each prison should contain detailed information as to visits made and notes and suggestions recorded by the visitors, and as to the manner of their disposal. A brief summary and general review of these reports should be included in the departmental report to be submitted to Government. 18

CHAPTER XVI.

Trends in Penal Reform.

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373. Prison reform is intimately connected with the reform of the penal law. Attempts at prison reform are worse than useless without coincident penal reform. 1, 2

374. Potential delinquents should be prevented from blossoming into actual criminals by dealing with latent tendencies to insanity and criminality at an early stage. The environments from which vice and misery spring must be reconstructed by raising the standard of life among the masses. Ignorance and the resulting tendencies to anti-social behaviour must be countered by a system of universal education, aimed not merely at developing the intelligence, but also at elevating the moral tone and improving physical stamina and health. 15 to 17

375. The certainty of punishment is far more effective as a deterrent than the mere severity of it. An efficient and well-organized police and the swift and certain administration of justice are "first-line weapons" in the prevention of crime. The protection of society from anti-social acts cannot rest solely on a system of deterrent punishments. It requires also that the offender should be morally regenerated and turned into a good citizen. 24, 25

376. Punishment must fit the criminal, not only the crime. Penal science is moving in the direction of the individualization of punishment. 26 to 29

377. No criminal responsibility ought to be attached to children under fourteen years. As a first step, the limit of absolute immunity under the Penal Could should be raised from seven to twelve years. In the case of children over twelve and under fifteen, culpability should not attach to them unless the factum of maturity of understanding is established by the prosecution. In all cases of alleged offences by young persons, it is necessary to make an expert examination of their physical health and mental condition and development, before the trial begins, and certainly before it is over. 30 to 32

378. The old-fashioned picture of prison as an administrative necessity and an adjunct to the maintenance of law and order should be replaced by a new conception

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of it as a place of moral regeneration, and as on the same plane as any other hospital, mental or general. 40 to 42

379. If treatment is to be adapted to the needs of offenders, there must be a check on indiscriminate commitments to prison. Only those must be sent who are likely to benefit by a relatively prolonged period of training. The provisions in the Indian Penal Code making a sentence of imprisonment obligatory for certain offences should be revised, and the Courts given a wider discretion to adjust punishment to the requirements of justice. They should have power, in lieu of passing a sentence of imprisonment, to release an offender with a warning or on probation. The power now exercisable in certain cases under Section 562 of the Criminal Procedure Code should be extended to cover other cases. 44, 45

380. The practice of imposing petty sentences of imprisonment should be put a stop to. As a first step towards their abolition, sentences of less than a month should be prohibited by law. Subordinate Courts should refrain from passing sentences of imprisonment in cases where other alternatives are available. But in cases of a serious nature, where imprisonment is considered indispensable, the term awarded should not be shorter than three months. 47 to 49

381. Within the prison itself there is abundant room and need for improvements in various directions. Special mention is made of some of the more important measures recommended. 50

382. But whatever improvements may be effected, it still remains true that imprisonment is generally an evil, to be avoided when any other course can be followed. Commitment to prison should be the last resort, especially if it be a first offence and the offender a young person. The most practical and the most hopeful of prison reforms is to keep people out of prison altogether. 51

383. If fines were justly graded according to individual capacity to pay, fewer persons would be imprisoned in default of payment, and fine might even be extended still further as an alternative to prison. It should be incumbent on the court, not merely discretionary with it, to grant time for payment of fine and to permit payment in instalments. No committal order should be passed before every effort has been made to secure payment, and without giving the offender an opportunity to explain his failure to pay. 54 to 58

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384. The wider extension and more general employment of the power to compel restitution is highly desirable. 59

385. Whipping as a form of judicial punishment should be abolished. 60 to 66

386. Solitary confinement should likewise be abolished. 67, 68

387. Persons who have served more than one period of corrective training, and have had adequate opportunities to live honestly but still continue to break the law, must be kept under prolonged segregation. The detention must not be under penal conditions, but in settlements where they could have such reasonable amenities as might make life endurable, and where, in company with their families, they might be trained to lead honest lives under proper supervision. 71

388. The death penalty may safely be abolished. But if it be decided to retain it as an ultimate weapon, it should be employed most sparingly, and reserved for extreme cases of cruelty or organized murder. Imprisonment (for life or for a term of years) should be the normal punishment for murder, and special reasons should be assigned by the Court in every case in which it considers that the extreme penalty is called for. The normal length of a sentence of imprisonment for life should not exceed fifteen or at the most twenty years, and even this should be capable of material reduction through the regular operation of a remission system. 72 to 78

389. Conviction for a serious crime often entails, in addition to punishment and social degradation, various after-effects in the form of disabilities. In the case of civic rights and disabilities, a distinction should be made between rights which the offender would share with the great majority of his fellow-citizens, such as the right to vote, and those which might lead to a position elevated above most others, as the right of being elected to the legislature or to a local body. Whilst rights of the latter type may properly be withheld, deprivation of the former is in most cases an unnecessary humiliation. Even with regard to the more special kinds of rights, and particularly with regard to the right to obtain an appointment or to practise a profession, exclusion should not be perpetual; after a definite period, varying according to the gravity of the case, it should lapse and cease to be effective. 79 to 81

SUGGESTED AMENDMENTS TO THE MYSORE JAIL MANUAL

CHAPTER II.

The Inspector-General of Prisons.

1. Substitute the following for sub-rule (1) of Rule 9 :— Rule 9 :

"The Inspector-General of Prisons shall visit every Central Jail at least twice in every calendar year, and every District Jail at least once in every calendar year." Inspection of jails by Inspector-General.

CHAPTER IV.

The Superintendent.

2. Substitute the following for Rule 28 :— Rule 28 :

"The Superintendent shall visit the jail at least once in the forenoon and once in the afternoon of every working day, and on Sundays and holidays also whenever special circumstances render it desirable that he should do so. If, from any cause, he is prevented from visiting the jail on any day on which he is by this rule required to do so, he shall record the fact and the cause of his absence in his diary. At least twice a month he shall visit the jail at night, and satisfy himself that the guarding is being properly performed, and that everything is in order." Daily visit to jail.

CHAPTER V.

The Medical Officer.

3. Number the existing Rule 49 as sub-rule (1), and add the following as sub-rule (2) :— Rule 49 :

"The Medical Officer shall examine all candidates for employment and all jail officers who may be sent to him by the Superintendent for that purpose, and shall certify in writing regarding their physical capacity and state of health." Examination of candidates.

CHAPTER VII.

Subordinate Officers Generally.

Rule 75-A : Supply of vegetables to officers.

4. After Rule 75 add the following as Rule 75-A :—

"With the permission of the Superintendent, the Jailor, Deputy Jailor, and other jail subordinates may be allowed a reasonable supply of vegetables for their own consumption from the jail garden free of charge, provided that no such permission shall be given unless the entire supply of vegetables required for jail use is being obtained from the jail garden."

CHAPTER XVI.

Classification and Separation of Prisoners.

Rule 200 : Age for segregation and treatment.

5. Number the existing Note to Rule 200 as (1), and add the following as Note (2) :—

"The age of the prisoners for the purposes of their segregation and treatment under the Prisons Act should be fixed by the Medical Officer of the Jail."

CHAPTER XVII.

Admission of Prisoners.

Rule 234 : Superintendent to check entries.

6. Add the following as the last sentence to Rule 234 :—

"In the case of under-trial and civil prisoners, a similar procedure shall be followed as regards the warrants and admission registers."

CHAPTER XVIII.

General Discipline and Daily Routine.

Rules 274-A and 274-B : Treatment of hunger-strikers.

7. Add at the end of the Chapter the following as Rules 274-A and 274-B.

"274-A. (1) Where on account of hunger strike, a prisoner has become unconscious or otherwise unable to

feed himself, the Medical Officer shall issue orders for his being forcibly fed, unless in his opinion such forcible feeding will itself be harmful to the prisoner's life. Where a prisoner is conscious and able to feed himself, the Medical Officer may, in his discretion, direct the prisoner to be forcibly fed, if, in his opinion, it is the only means of keeping him alive. Forcible feeding should not be attended with unnecessary violence, and should be ordered only in suitable cases as above described.

(2) No criminal prosecution or civil action shall be sustainable against the Medical Officer either for administering or not administering food artificially at any stage, provided the Medical Officer is of the honest opinion, reached with due care and attention, that the treatment given is in the best interest of the prisoner's health.

(3) It is the duty of the Jail authorities to do what they reasonably can, to keep the prisoners in their charge in health and to save them from death. The exact time at which artificial feeding should be begun in each individual case shall be left to the discretion of the Medical Officer.

274-B. (1) Prisoners who go on hunger-strike should be warned that no redress of any alleged grievance will be allowed as long as the strike continues, that it is a major offence, and that they are liable to any jail punishment and also to prosecution under section 52 of the Prisons Act under which they may be sentenced up to one year's imprisonment.

(2) In case of mass hunger-striking which amounts to mutiny, the prisoners should be isolated as far as possible from each other and other prisoners."

CHAPTER XX.

The Remission System.

8. (1) Add the following as Explanation under Rule 298:— Rule 298: Award of remission for good conduct.

"For this rule prison offences punished only with a warning shall not be taken into account."

(2) Add "whether entitled to ordinary remission or not" between "prisoner" and "for" in the first sentence of Rule 303. Rule 303: Qualifications for special remission.

CHAPTER XXI.

Grading of Convicts and Convict Officers.

Rule 325: Appointment of unqualified convicts as warders.

9. In the opening sentence of Rule 325, after the words "convicts who are not fully eligible may be so employed," add "and permitted to share the concessions, including extra remission, given to qualified prisoners while so employed";

And omit sub-rule (3).

CHAPTER XXXII.

Releases.

Rule 453 (4): Procedure prior to releasing convict.

10. Substitute for sub-rule (4) of Rule 453 the following: —

"A prisoner entitled to release on any jail holiday shall be released on the preceding day."

Rule 455: Compliance with orders received.

11. Substitute the words 'jail holidays' for the word 'Sundays' at the end of Rule 455.

Rule 463: Treatment of telegraphic orders of release.

12. Substitute the following for the existing Rule 463:—

"No action shall be taken on a telegram directing the release of a prisoner, unless it has been sent by a Secretary to Government or the Registrar of the High Court. If doubt is felt as to the genuineness of a message, a telegraphic enquiry should be made."

Rule 466-A: Release of security prisoners on medical grounds.

13. Add the following as Rule 466-A:—

"If a prisoner detained solely under a sentence of imprisonment in default of furnishing security to keep the peace or for good behaviour is so seriously ill as to be likely to die, whatever the term of his unexpired sentence, the Superintendent shall refer the case immediately to the District Magistrate, who should exercise the discretion allowed to him by Section 124 of the Code of Criminal Procedure, under which he can release the prisoner without referring to Government."

Rule 466-B: Conditional release for treatment outside hospital.

14. Add the following as Rule 466-B:—

"In cases such as serious eye disease, complicated pregnancy, or where special operative skill is required, the Medical Officer may certify to the necessity of transferring such prisoners to a general or special hospital for treatment. He shall record a full statement of the case and forward the same to the Superintendent, who shall forthwith submit it to the Inspector-General, for orders of Govern-

ment being obtained for the temporary release of the prisoner. Before removing the prisoner, the Superintendent of the Jail shall make necessary arrangements for sending him to the hospital for treatment. The prisoner shall be provided, if necessary, with railway warrants for his journey to and fro, subsistence allowance, and cart hire. The railway warrant, subsistence or any other allowances for the return journey, may be sent to the officer in charge of the Hospital to be delivered to the prisoner on discharge. The prisoner shall be issued with private clothing on release to be withdrawn on his readmission. If the Medical Officer considers the case so serious as to require an attendant, the Superintendent shall provide a proper attendant. Female prisoners shall be provided with female attendants.

"In the case of prisoners of a dangerous type, who are temporarily released and sent to general hospitals for medical treatment, a regular police guard should be arranged for. The prisoners should, in such cases, be sent to the hospitals only after ascertaining from the hospital authorities that separate accommodation is available. In emergent cases necessitating the immediate removal of sick prisoners to general hospitals, in which delay in sending such prisoners to the hospitals is, in the opinion of the Medical Officer of the Jail, likely to prove fatal, the prisoners should be sent without delay to the hospitals, and the hospital authorities should make the best practical arrangements irrespective of the fact that separate accommodation is or is not available in the hospital.

"The Superintendent may transfer a prisoner to a hospital in anticipation of the sanction of Government, where the Medical Officer considers such transfer absolutely necessary in order to conduct a surgical operation or otherwise."

CHAPTER XXXIV.

Confinement in Irons for Security.

15. At the beginning of Rule 496, add the following sentence:— Rule 496:

"Ankle rings shall be used for purposes of security only on prisoners that have to be attached to a chain after lock-up, when occupying tents and temporary buildings which are insecure." Description of ankle rings to be used.

CHAPTER XXXV.

Escapes.

Rule 507-A.

16. At the end of Chapter XXXV, add the following as Rule 507-A :—

Procedure regarding disposal of warrants of escaped prisoners.

"The warrant of a prisoner who escapes from jail shall be retained in the jail for a period of ten years from the date of his escape. If he is not recaptured within that period, it shall be returned to the committing court with an endorsement that the prisoner escaped from the jail ten years ago and has not been recaptured."

CHAPTER XXXVIII.

Medical Administration and Hospital Management.

Rule 536 :

17. Insert the following as sub-rule 536 (2), marking the existing rule 536 as sub-rule (1) :—

Supply of hospital clothing and bedding.

"Every patient in hospital shall be provided with a proper mattress and a pillow and with white sheets."

Insert the following as sub-rule (3) of the same rule :—

"If an epileptic is placed in a cell, there shall be no raised masonry berth, but he shall be provided with a mat of a thicker pattern and shall sleep on the floor."

CHAPTER XLII.

Civil Prisoners.

Rule 640 :

18. Insert the following as sub-rule (4) of Rule 640 :—

Release on grounds of illness.

"In cases of serious illness or where operative skill is required, Superintendents of jails may, in anticipation of the sanction of the civil court, remove civil prisoners to an outside hospital for treatment. A brief statement of the case and a certificate as to the necessity for the transfer should be furnished to the Inspector-General forthwith."

Rule 646 :

19. Add the following at the end of Rule 646 :—

Release of judgment debtor.

"or on Sundays or other jail holidays; and provided that, in the case of the subsistence allowance paid by a detaining creditor becoming exhausted on a Sunday or other jail holiday and not being renewed, the debtor shall not be released on the preceding day, but on the following Monday or working day, as the case may be."

20. To Rule 660 add the following as sub-rule (i), the existing sub-rules (i) to (iii) being renumbered (ii) to (iv) :— Rule 660:

" (i) The duty of ascertaining the time at which a prisoner committed to the sessions is to be produced before the Sessions Court, and of providing the necessary escort for this purpose, rests with the police." Production before Court.

CHAPTER XLIX.

Prisoners Sentenced to Death.

21. Add the following as Rule 701-A :— Rule 701:

" When a condemned prisoner appeals to the High Court, the Superintendent shall at once inform the District Magistrate." Appeal to be reported.

22. Add the following as Rule 707-A :— Rule 707:

" In the event of its coming to the knowledge of the Superintendent, at any time before the execution of the sentence, that altogether exceptional circumstances have arisen which plainly demand a reconsideration of the sentence, he is at liberty, anything in the foregoing rules notwithstanding, to report the circumstances by telegraph to the Government, and ask for their orders and to defer execution till they are received." Exceptional circumstances may be reported.

23. Add the following as Rule 710-A :— Rule 710-A:

" When the execution takes place within jail premises, the Superintendent may admit any adult male relative or relatives of the prisoner and any other respectable male adults, up to a maximum of twelve, to witness the execution." Attendance of spectators.

CHAPTER LII.

Lunatics.

24. Add the following as Rule 751-A :— Rule 751-A:

" When a prisoner confined in a jail under Section 466 of the Code of Criminal Procedure is certified to be capable of making his defence, the certificate made under Section 473 shall be sent, together with a medical history of the case, which should include information as to his conduct while in jail, to the Court before which he is to be tried, in view to the Court appointing a time for trial.' Certificate under Section 473, Criminal Procedure Code.

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APPENDIX I.

MEMORANDUM INVITING OPINION ON MAIN HEADS OF ENQUIRY.

Committee on Prison Reforms in Mysore, Bangalore.

MEMORANDUM NO. 28 –P. R. C., DATED 10TH APRIL 1940.

The Government of Mysore have, by an Order of 6th March 1940, appointed a Committee, constituted as noted below, to make an enquiry into the whole matter of prison administration in the Mysore State, the efficacy of the existing system, and any defects therein, and to suggest remedies and improvements on practicable lines. It is observed in that Order that a considerable period of time has elapsed since the subject of prison administration in India was subjected to comprehensive enquiry, that the system in force in Mysore, which is more or less the same in essentials as in British India, has remained almost unchanged during the last twenty-five years and more, and that the Government consider that the time has arrived for a thorough overhauling of the machinery and methods in the light of experience here and elsewhere and of progressive ideas as to the treatment of prisoners and the moral and deterrent effects of prison discipline.

CHAIRMAN.

1. *Rajadharmapravina Diwan Bahadur*
   K. S. Chandrasekhara Aiyar, Esq., B.A., B.L.,
   Retired Chief Judge of Mysore.

MEMBERS.

2. *Rajasevasakta*
   B. K. Narayana Rao, Esq., B.A., M.B.C.M., etc.,
   Inspector-General of Prisons in Mysore.
3. Abdul Aziz Khan, Esq., B.A.,
   District Magistrate, Bangalore District.
4. B. G. Appadorai Mudaliar, Esq., B.A., etc.,
   Director of Industries and Commerce.
5. *Rajadharmaprasakta*
   K. Shankaranarayana Rao, Esq., M.A., B.L.,
   Retired Judge, High Court of Mysore.
6. D. H. Chandrasekharaiya, Esq., B.A., LL.B.,
   Advocate and Member, Legislative Council.

7. B. Puttaiya, Esq., B.A.,
Retired Superintendent, Government Printing.

8. R. Gopalaswami Iyer, Esq.,
Member, Representative Assembly.

SECRETARY.

9. B. K. Ramakrishnaiya, Esq., M.A., LL.B.,
Assistant Secretary to Government.

The Committee will feel greatly obliged if persons conversant with the subject, and in a position to offer helpful information, criticism, suggestion or advice, will kindly furnish their views in writing to the undersigned on or before the 1st of June next.

As a guide to the points on which opinions would be welcome, a syllabus indicating the main heads of enquiry is appended; but, of course, answers need not cover all of them, nor be confined to those only if there are other points having a close bearing on the subject-matter of the enquiry which is desired to be illuminated. It is particularly requested that answers, while being reasonably concise and free from vague generalities, should, as far as possible, be complete and self-contained, particularly as the oral examination of witnesses will be strictly limited in number and scope.

Copies of the syllabus may be had on application to the undersigned.

By Order,
B. K. RAMAKRISHNAIYA,
Secretary.

NOTE.—While sending in replies, it is requested that the following particulars also may be furnished:—

1. Name of the person answering.
2. Age.
3. Occupation.
4. Residence.
5. Particulars, if any, bearing on special knowledge or experience regarding the subject.

Syllabus.

I. Prisons and Prison Administration.

A. Classes of Prisons.

Classes of prisons in the State, their number and location; average number of inmates in each.
What institutions to be classed as subsidiary jails.
Nature and purpose of subsidiary jails.
  Control.
  Staffing.
  Accommodation, scale of—
Whether any changes are required in regard to the above.

B. Administration and Superintendence.

Inspector-General of Prisons; selection, duties and powers.
Conference with Inspectors-General of other parts of India.
Superintendents—Deputy and Assistant Superintendents.
  Their number, recruitment, qualifications, training.
  Salaries, prospects.
Officers in charge of lock-ups.
  Powers, duties, responsibilities.
How far the system of placing Medical Officers in charge of Jails is satisfactory from all points of view.
  Separation or combination of Medical charge with superintendence.
  Whether any alteration is required; if so, the financial result.

C. Prison Staff.

Subordinate Executive Establishments: Jailors, Deputy-Jailors, Warders, Deputy-warders, etc.- -Their number, selection and so on.
Clerical establishment (their number, selection and so on).
Medical Staff—
  Number of officers, emoluments, duties.
Technical staff (Industrial, etc.)—Number, qualifications, emoluments, duties.
Other officials (Store-keepers, night-watchmen, etc.), number, qualifications, emoluments, duties.
Convict officers—
  Number, qualifications, duties, privileges.
Whether existing Prison staff is sufficient in number, efficient and adequately paid as a whole, and in respect of the different classes of officers.
Whether the existing system of selection, recruitment and training for the various classes of officers is satisfactory; and in what respects it is capable of improvement.

D. Efficiency and Economy.

Have officers generally a proper understanding of their respective duties?
How far corruption and petty tyrannies are prevalent among the lower staff.
Prevention of dishonesty and corruption.
Qualifications required of a good Prison Staff.
  How far these are attained at present.
  Directions in which changes are required.
Quarters for Prison officers and officials.
The characteristics of a well-run prison.
  The factors which give it a good "tone."
Employment of police for guarding or other purposes.
Services—feeding, clothing, medical service, etc.
Prison manufactures.
  Adequacy of arrangements.
  Payment of prisoners for work.
Need to attach a special officer conversant with prison economy to the Inspector-General's Office.
Prison Finance.
Directions in which, and measures whereby, economy may be attained without loss of efficiency.

E. Boards of Visitors.

Boards of visitors for the different classes of Prisons.
  Their constitution; number, officials and non-officials.
  Mode of appointment, period, etc.
  Lady visitors.
  Functions of visitors.
  How their work may be encouraged and helped.
  Frequency of visits and inspections. Points to be attended to.
  Complaints to visitors; action to be taken.
  Record of visits and inspections.
  Changes required.

F. New Prisons.

Working capacity of prisons, how determined.
  Superficial area for each prisoner.
  Standard size of berths in new prisons.
  Measures to relieve overcrowding.
  Points to be remembered when constructing new jails; situation, area, accommodation required for various purposes, etc.
  Plan of prison buildings.
  Number and type of cells.
  Latrines, requirements as to—
  Lighting, water-supply, etc.
  Division between blocks; outer enclosure.
Equipment of Prisons (power, machinery, tools and materials).

G. Rules, etc.

Jail Manual and Lock-up Manual; in what respects they need revision.

How far it is possible to have uniformity of regulations and methods in Mysore with those of other parts of India.

II. Prison Population.

A. Classification.

The object of classification of prisoners.

The mode of classification; the various classes to be adopted.

The Stage System, its object and incidents.

Authorities empowered to classify.

Rules as to classification. Any changes needed in the existing system.

Whether classification should be in accordance with the nature of the offence or the term of sentence.

Nature of differentiations in treatment.

How far judges and magistrates are in a position to discriminate as regards the placing of convicted prisoners in different divisions and the treatment to be accorded to individual prisoners.

Effect of prison life on first offenders.

Do on habituals.

B. Separation.

Objects of separation.

Desirability of full or partial separation; of some or all prisoners.

At particular times, especially after dusk, or during sleeping time only.

Effect, if any, of a system of separation on health, bodily and mental.

Utility of cubicles or cells; improvements over existing types; number required in proportion to prison population.

Should first offenders be separated from habitual criminals?

And the young from the adult? How far separation is possible in the existing types of prison buildings.

C. Juvenile Offenders.

Necessity and scope of legislation in regard to the prevention of juvenile crime and the treatment of juvenile offenders.

Age limits for classification as (*a*) children and (*b*) young persons.

Commitment of children and young persons; how far expedient.

Expediency of forbidding sentences of imprisonment in their cases.

Custody of such offenders under remand, and during trial.

Children's Courts, how far feasible in large towns.

Possible alternatives in other places.

Constitution, powers and procedure of Children's Courts.

Probation officers; paid or voluntary; their functions.

Sentences of whipping on young offenders, when and how inflicted.

Reformatories and Reformatory schools; their feasibility, location, working, etc.
Disposal of defective children; reformatory school or special institution.
Expediency of legislation in regard to the custody and upbringing of children in improper surroundings, including female children in danger of becoming prostitutes.

D. Adolescents.

Who are to be regarded as adolescents?; age limits.
Place of confinement of adolescents: juvenile jails or ordinary jails or special reformatory institutions.
Discrimination according to gravity of crime.
Female adolescents.
Management of special institutions.
Authorities empowered to commit.
Powers of Superintendent.
Staff.
Treatment of inmates, surroundings, etc.
Period of detention in special institution.
Release on license, and supervision after release.
Convicted adolescents who relapse into crime.

E. Habituals.

Habituals: who to be included.
How far it is true in the case of these that "prevention is more important than cure."
The principal classes of habitual criminals.
Measures for the treatment of Recidivism.
Female habituals, desirability of special prisons.
Members of Criminal Tribes.
Escaped convicts.
Employment for habituals.
Sleeping accommodation and other incidents.

F. Females.

Isolation of female prisoners from rest of inmates.
Classification, basis of—among female prisoners.
Feasibility of separate prisons for females.
Female warders in central and subsidiary jails.
Escort for female prisoners when sent out.
Employment and instruction; present arrangements and possible improvements.
Retention of their children by female prisoners.
Amenities and conveniences in the matter of dress, recreation and the like.
Attention to behaviour and personal appearance.
Training; suitable forms of labour.
Women visitors.
Appropriate mode of treatment; cases of prostitutes and drunkards.
Nature of reformatory work required.

G. Mental Defectives.

Differences in type of mental defectives (insanity, deficiency, abnormality, etc.)
- Feasibility of separation and of treatment in special institutions.
- Possibility of segregating defectives from the normal population.
- Expert mental examination of adolescent and child offenders.
- Bearing of mental condition on criminal responsibility.
- Arrangement for confinement of non-criminal and of criminal lunatics.
- Disposal of recovered lunatics under trial or convicted.
- Changes, if any, required in Acts and Rules.
- Desirability of special legislation.

H. Non-habituals.

Non-habituals.
- Differentiation such as "star", "special", "ordinary".
- Employment of non-habituals.
- Sleeping accommodation and other incidents.

I. Other Classes.

Simple Imprisonment Prisoners—Differentiation in respect of labour, diet, books, bedding, clothing and so on.

Political Prisoners—
- Who to be included.
- Any special treatment required.
- Should they be confined with ordinary prisoners or separately, either singly or in groups.

Civil Prisoners—
- Where to be confined.
- Existing arrangements, and any changes needed, as to work. exercise, recreation, sleeping, guarding, and so on.

Military Prisoners—
- Existing arrangements, and changes needed.

Condemned prisoners—
- Guarding of—by police or warders.
- Case of female prisoners under death sentence.
- Use of fetters and belchains.
- Amenities and concessions to condemned prisoners.
- Carrying out of sentence.
- Feasibility of separate prison for condemned prisoners.

Leper Convicts—
- Segregation of— ; present arrangements and possible improvements.
- Special accommodation.
- Arrangements for disinfection.

Sexual offenders—their treatment.

J. Under-trials.

Necessity for separation of under-trial block from convict prison.
- Guarding arrangements.

Whether under-trials should be restricted to cells.
Separation as among under-trials.
Isolation of murder accused.
Concessions to under-trials in regard to food, clothing, books, writing materials, smoking, etc.
Employment of under-trials.
Prevention of undue detention of under-trials. Whether period of detention should count as part of sentence.
Production in Court in fetters; whether desirable.

III. Treatment of Prisoners.

A. Prison Labour.

Principles governing selection of labour.
Adaptation of labour to the different classes of prisoners.
Forms of labour, intra-mural and extra-mural.
Prison labour; how far it should be productive.
Suitable forms of productive labour in prison.
The earning scheme as the basis of prison industry; its nature, advantages, and method of operation.
Uniformity versus variety in nature of tasks set.
Effect of continuous manual labour on health of body and mind.
Municipal and local outdoor work.
Public works, roads, gardens, etc.
Employment on construction of Jail buildings.
Agricultural and fruit farms, etc.; possibilities and suitability of employing prisoners.
Reclamation and cultivation of land; how far and in what circumstances an appropriate form.
Industries as distinguished from unskilled labour.
Appropriate forms of jail industries.
Choice of jail manufactures.
Disposal of products.
Sale to public. Competition with outside market. Fixation of prices, advertisements, etc.
Patronage by Government Departments.
Supply of power, machinery, materials.
Expert supervision.
Financial scrutiny.
Possibility of organizing on economic basis.

B. Prison Offences.

Nature and classification.
Punishments for prison offences; nature and circumstances in which inflicted.
Necessity for enquiry.
Whether commission of prison offences can be prevented or minimised.
Prevention of mutiny and riots in jails.
Authorities empowered to deal with prison offences.

Record and reports of punishments awarded.
Corporal punishment; restrictions on use.
Mode of administration.
Standing handcuffs, link-fetters, bar-fetters, etc.
Restrictions on use.
Solitary confinement, whether to be retained or abolished.
Maximum extent of separate confinement.
Degree of labour awarded (hard, medium, light, etc.).
Combined punishments; restrictions to be imposed.
Talking in prison; how far restrictions should be enforced ordinarily, and as punishment.
Use of irons (fetters, belchains, etc.) for restraint and security; restrictions to be imposed.
Prevention of outbreaks from jail; measures to be taken.
Power to offer rewards for recapture; limit of amount.
Amendment of rules as to prison discipline.

C. Reformatory Influences.

Extent to which provision for education is needed in the different classes of jails.
Nature of instruction to be given. Hours, standard, etc.
Jail libraries, and their use by prisoners.
Gift of books to jail libraries.
'Book Dump' scheme.
Permission to prisoners to get their own books.
Prison lectures; their possibility and scope.
In what respect existing rules and practice require modification.
How often interviews and letters may be permitted.
Assistance to illiterate prisoners who want to write letters.
Place of religion in a reformatory system.
How far it is desirable and possible to provide for religic and moral instruction to prisoners.
The agencies to be employed, and remuneration, if any.
Scope of religious and moral instruction.
Provision for religious services and observances for individual prisoners or classes of prisoners.
Vocational training of prison inmates.
Object of such training.
Scope and form of training.
Recreation; forms, hours, associations and other incidents.
Occupation for the evening hours between completion of work and sleep.

D. Physical Condition, etc.

Existing arrangements in regard to the diet of various classes of prisoners.
How far changes are required.
Changes in the prescribed dietary; when and by whom to be made.
Cooking and serving of food; existing arrangements and changes, if any, needed.
Purchase and storage of provisions.

Kind and number of prison clothes for various classes of prisoners; existing practice and changes, if any, needed.
Use of distinctive marks on prisoner's clothing and bedding.
Use of wrist rings, ankle rings and neck rings; when necessary or permissible.
Supply of water for drinking and for ablution.
Arrangements for bathing; any improvements needed.
Use of snuff, tobacco, betel-leaves, etc., by prisoners.
Latrine arrangements; improvements, if any, needed.
Use of night utensils in cells.
Night soil in prisons.
Disinfection of clothing and bedding; existing arrangements and any changes needed.
Lighting of premises, including cells: existing arrangements and possible improvements.
Possibility of electric installations.
Hospital buildings and accommodation. What improvements required.
Nature and scale of equipment required.
Medical treatment.
Nurses, male and female.
Employment of prisoners as hospital attendants.
Medicines, etc.
Weighment of patients.
Special diseases, infectious, tubercular, malarial, etc.
Health of prisoners in Mysore Jails and Lock-ups.
Comparison with the general health of the surrounding population.
Statistics in illustration.
Measures for prevention and for treatment of diseases.
Arrangements for segregating infectious diseases.
Attention to personal hygiene; how far enforced.
Dietary in relation to physiological needs of prisoners as a class or individually.
Nature of work of medical officers.
Whether sufficient attention is paid to the mental condition of prisoners.

E. Gratuities and Remissions.

Rationale of the system of granting gratuities.
Condition of earning of gratuities.
Prisoners' power of disposing of gratuities.
Rewards to prisoners.
Nature, extent and circumstances in which rewards may be earned.
Forfeiture of rewards when justifiable.
The Pecule System (of rewarding prisoners who complete a full and approved daily task).
Working of this system in the Punjab.
How far it may be experimentally tried in Mysore.
Sentences in regard to which remission may be given.
Amount of remission; calculation.
How remissions may be earned; reasons for grant.

Circumstances in which past remission may be forfeited, and future remissions excluded.
Special remissions; their admissibility.
Classification of life convicts for purposes of remission.

F. Aid and After-care.

Aims of voluntary work among prisoners.
After-care of released prisoners.
The rationale of after-care.
Why organised help is required; nature of the help to be given in different cases.
After-care for women-prisoners; points to be attended to.
Requirements of an efficient after-care system.
Prisoners' Aid Societies.
Constitution.
Functions.
Staff and agencies needed, honorary and paid, male and female.
Facilities for their work.
Nature of aid to be given in different cases.
Reports to be furnished.
Advisability of centralising the work of societies.
Provision of funds.
Whether grants to societies are proper charge on public funds.
Disposal of prisoners' gratuities.
Relation between Aid Societies and Parole officers.
How far there is organized provision for aid to released prisoners in Mysore.
Working of system in Mysore compared with other parts of India.

IV. Problem of Crime and the Criminal.

A. Causation of Crime.

The causation of crime; the various factors involved, subjective and extraneous.
Classification of crime according to origin.
How far there is a distinctive criminal type.
Making of the criminal.
Causes of female crime.
Do juvenile crime.

B. Treatment of the Criminal.

Object of punishment—Retributive, deterrent or reformatory.
Should punishment fit the crime or the criminal; that is, whether the nature of the offence or the character of the offender is the more important consideration.
How far it is desirable to apply to local conditions the provisions of the Criminal Justice Bill, introduced in the House of Commons by Sir Samuel Hoare, for the abolition of imprisonment in the case of young persons convicted of certain offences and substitution of alternative methods.

Ditto with regard to the corrective training of offenders who, though young in years, persist in crime.
Ditto with regard to hardened and professional criminals.
Ditto with regard to the abolition of corporal punishment except in certain prescribed cases.
Severity contrasted with certainty of punishment as a deterrent.
Solitary confinement and association; balance of advantages and disadvantages.
Whether it is possible to combine the advantages of both systems.

C. The Penal Law.

The Penal Law of India, as represented by the Criminal Codes, the Judicial System, and the Prison System.
Their general characteristics from the point of view of the suppression of crime and the reclamation of the criminal.
Prevalent attitude towards problems of Crime and the Criminal.
Desirability of amending those sections of the Indian Penal Code which make imprisonment obligatory on conviction, so as to give discretion to Court.
Discouragement of short sentences by imposing a minimum limit.
Value and efficacy of imprisonment as a remedial measure.
Amendments of provisions in the Criminal Procedure Code regarding the levy of fine, in such matters as grant of time for payment, permission to pay in instalments, award of imprisonment for non-payment only by separate proceedings, and so on.

D. Capital Punishment.

The Death sentence.—
Its necessity and use.
Expediency of its abolition.

V. Approaches to Problem.

A. Substitutes.

How far it is true that "the most practical and the most hopeful of prison reforms is to keep people out of prison altogether."
Substitutes for Imprisonment.
The indeterminate sentence; nature and incidents and circumstances in which it may be resorted to.

B. Revision.

Revision of sentences.—
Reasons for and against; balance of advantage.
Effect of system on outlook and behaviour of prisoners.
To what classes of prisoners to be applied.
Provision for periodical revisions of sentence.
Scale of remissions in different cases.
Constitution of Revisory Boards; their functions.
Points to be considered by the Board.

C. Release.

Procedure as to release on parole.
- Conditions to be imposed ; penalties for breach.
- Parole officers ; their functions.

Nature and incidents of the probation system.
- Its objects and results.
- Extension of Section 562 of the Criminal Procedure Code to other offences.

Release on probation and outright release ; comparative advantages.
- Conditions for release.
- Penalty for breach of conditions.
- Probation officers and non-official workers. Their functions.
- Expediency of utilizing police agency for supervision.
- How release on probation differs from release on parole.
- Possibilities of a scheme on the lines of the Punjab "Good Conduct Prisoners' Probational Release Act."

D. Juvenile Criminals.

Juvenile Crime.
- Factors in the causation of—
- Measures for prevention.
- Necessity for consolidated legislation for the prevention of juvenile crime, and the matters to be provided for.

Borstal institutions ; objects and nature of training.
- How far it is desirable and possible to establish such institutions in Mysore.
- The main principles of the course of training.

Remand Homes.

Other special institutions.

Removal of disabilities of convicted prisoners.

E. Habituals, Professionals and Criminal Tribes.

Habitual Criminals.
- Preventive detention.
- How far it differs from ordinary imprisonment.
- Experience of its working elsewhere.
- Objects and main features.

Professional Criminals.
- Colonies for incorrigible criminals ; how far desirable and feasible in Mysore.
- Experience of the Salvation Army's Work.
- Feasibility of Settlements and Colonies for habituals and professionals.

Criminal Tribes.
- Criminal tribes in the Mysore State.
- Policy in regard to the treatment of Criminal Tribes.
- Existing legislation, and any changes needed.
- Settlements for criminal tribes ; object, situation, administration, agency, official and non-official.
- Procedure in regard to commitment to settlement.
- Provision of employment for members of settlement—agricultural, industrial, public works, etc.

Appointment of a Reclamation Officer.
Nature of reformatory influences in the above cases.
Education.
Vocational training.
Medical relief.
Registration of individuals as members of criminal gangs; procedure as to—
Case of children.
Release, tentative and final.

F. Legislation.

Prison Reform Legislation.

APPENDIX I-A.

ILLUSTRATIVE LIST OF POINTS.

Balance of advantage or otherwise in the separation or combination of medical charge with the superintendence of prisons.

Improvements needed in the system of recruitment and training of officers, especially in the higher grades.

How the work of Boards of Visitors may be helped and improved.

Improvements in the system of classifying prisoners.

How far the principle of separation or association among prisoners can be carried.

Suitable additions to existing forms of prison labour and of skilled and semi-skilled industries.

Improvement of the methods of corrective and reformatory treatment in prisons.

Provision to be made for the mental treatment of persons accused or convicted of offences.

Defects, if any, in the existing system of Aid and After-care, and feasible improvements.

Provision for the periodical revision of sentences.

Prevention of juvenile crime, and the treatment of juvenile offenders.

The working and development of Borstal Institutions.

Possibilities of the systems of release of prisoners on parole and on probation.

Directions in which the Penal Law requires to be modified and its rigour mitigated.

Measures for dealing with recidivism.

Generally, the lines of penal and prison reform that may advantageously be followed in the coming years.

APPENDIX II.

Persons from whom written opinions were received in response to the Memorandum.

	Name.	*Address.*
1.	Mr. V. Narasimhamurthy, M.A., LL.B.	Head Munshi, District and Sessions Judge's Court, Shimoga.
2.	Mr. T. G. Rama Iyer, B.A.	Director of Agriculture in Mysore, Bangalore.
3.	Mr. T. S. Ramachandran, I.C.S.	District and Sessions Judge, Madras Presidency.
4.	Mr. Frank Noronha, M.B.C.M.	Retired Superintendent, Mental Hospital and Medical Officer, Central Jail, Bangalore.
5	Mr. Mohamed Akbar Sheriff.	R. A. Member, and Non-official Visitor of District Lock-up, Hassan.
6.	Mr. Venkataramane Gowda.	R. A. Member, Hunsur Taluk.
7.	Mr. T. Chandrasekhariah ...	Superintendent, Prisoners' Camp, Byramangala.
8.	Mr. T. M. Amir, B.A. ...	Superintendent, Sub-Jail, Tirthahalli.
9.	Mr. S. Raghavachar, B.A., G.D.A.	Assistant Comptroller, Bangalore.
10.	Mr. J. T. Gopalakrishnan and	Non-official Visitors, K. G. F. Special Lock-up.
11.	Captain G. B. Willis (Joint opinion.)	
12.	Mr. B. Thimma Raja Urs, B.A., LL.B.	District Superintendent of Police, Chikmagalur.
13.	Dr. K. N. Venkatasubba Sastry, M.A., Ph.D.	Headquarters Commissioner for Scouting, Mysore.
14.	Dr. M. Siddalingaiya, M.A., Ph.D.	Professor of Education, Mysore.
15.	Mr. Pankaj Kumar Mukherjee, M.A., B.L.	Advocate, High Court, and Member, Indian Penal Reform League, Calcutta.
16.	Mr. H. Lingappa, B.A., B.L.	Advocate and M. L. C., Shimoga.
17.	Mr. K. Subrahmanyam, B.A., B.L.	Honorary Secretary, Certified School, Ex-pupils' Association, Chingleput.
18.	Mr. N. Seshu Iyer, M.A. ...	Superintendent, Mysore Jail Mysore.
19.	Mr. S. P. Samannah, B.A., LL.B.	Advocate, Kottige Road, Bangalore City.
20.	Mr. G. Rajagopalachar, M.A., LL.B.	Advocate, Tumkur.
21.	Mr. K. Sampangiramiah, B.A., B.L.	Chikballapur.

	Name.	*Address.*
22.	Mr. G. S. Doraswami Iyer, B.A., B.L.	Public Prosecutor, Bangalore Division.
23.	Mr. P. S. Wright, B.A. (Oxon).	Warden, Mysore University Settlement, Bangalore.
24.	Mr. S. B. Ramachandra Murthi.	District Lock-up Officer, Chitaldrug.
25.	Mr. R. V. Subramanyan ...	Representative, "The Hindustan Times," Bangalore.
26.	Mr. P. Parthasarathy, L.M.S., etc.	Director of Public Health, Bangalore.
27.	Mr. S. Srikantiah ...	Ex-teacher, Central Jail, Bangalore.
28.	Rev. G. Gersham ...	Municipal Councillor, Kolar.
29.	Mr. R. Muthoji Rao Sindia, B.A.	District Superintendent of Police, Tumkur District.
30.	Mr. B. R. Garudachar, B.A., etc.	Superintending Engineer, Mysore Circle.
31.	Mr. G. N. Puttanna ...	Superintendent, Sub-Jail, Shimoga.
32.	Mr. A. R. Wadia, B.A., Bar.-at-law.	Professor of Philosophy, Mysore.
33.	Mr. M. Wynne ...	District Superintendent of Police, Bangalore City.
34.	Mr. T. Ramayya, B.A. (Hons.)	Deputy Commissioner, Hassan District.
35.	Mr. S. Subba Rao, B.A., M.B. C.M., etc.	Retired Senior Surgeon and Inspector-General of Prisons.
36.	Sir Charles Todhunter, K.C.S.I.	Private Secretary to H. H. the Maharaja.
37.	Major G. S. Gill, I.M.S. ...	Superintendent, Central Jail, Vellore.
38.	Mr. N. T. Gopala Iyengar, B.A., LL.B.	Retired District and Sessions Judge.
39.	Mr. R. P. Mallappa, B.A., LL.B.	Special Magistrate, Bangalore.
40.	*Diwan Bahadur* G. Narayanaswamy Chetty, C.I.E.	Madras.
41.	Mr. P. Shama Rao, B.A., L.M.S.	Medical Officer, Government Life Insurance Office, Bangalore.
42.	Mr. S. Venkatramiah ...	Advocate, Chikmagalur.
43.	Mr. S. R. Sampath Iyengar, B.A., LL.B.	Advocate, Mysore.
44.	Mr. K. V. Subramanya Swamy.	Pleader, Tumkur.
45.	Mr. B. Vasudeva Murthy ...	Advocate, Bangalore.
46.	*Rajasevasakta* S. Hiriannaiya.	Retired Revenue Commissioner.
47.	Mr. T. Balakrishna ...	Retired Surgeon, Bangalore.
48.	Mr. Abdulla Hussain Sheriff.	Superintendent, Central Jail, Bangalore.
49.	Mr. Mir Mahammad Hussain.	Honorary Secretary, Prisoners' Aid Society, Delhi Province, Delhi.

	Name.	*Address.*
50.	Mr. M. Venkoba Rao ...	Retired Chief Jailor, Bangalore.
51.	Mr. K. Siddaramappa ...	Retired Senior Assistant Commissioner, Bangalore.
52.	Mr. M. V. Govindaswamy..	Superintendent, Mental Hospital, Bangalore.
53.	The Secretary, Bar Association.	Mysore.
54.	Mr. K. N. Ramalingachar...	Kyalnur Village, Vemagal Hobli, Kolar Taluk.
55.	Mr. E. G. B. Peel, C.I.E. ...	Inspector-General of Police in Mysore.
56.	Mrs. B. Siddamma ...	.....
57.	Dr. K. N. Kini ...	Deputy Director of Public Instruction.
58.	Mr. M. A. Doraiswami Iyengar, B.A., B.L.	Advocate, Mysore.
59.	Mr. H. V. Kothandaramiah.	Organizer of Criminal Tribes, Holalkere.
60.	The Manager ...	Criminal Tribes Settlement, Hubli.
61.	Mr. H.C. Dasappa, B.A., B.L.	Advocate, Mysore.
62.	Rev. M. H. Harrison ...	Principal, United Theological College of South India and Ceylon, Bangalore.
63.	Mr. C. Dorai Swamy, M.A., B.T.	Head Master, Junior Certified School, Bellary.
64.	The Superintendent ...	Central Jail, Coimbatore.
65.	Dr. Otto Koenigsberger ...	Government Architect, Bangalore.
66.	Mr. Ralph Richard Keithan.	Kengeri.
67.	Mr. Balasubramanyan ...	Superintendent, Central Jail, Vizagapatam.
68.	Mr. A. Bhimappa Naik ...	Vakil, Chitaldrug.
69.	*Rajasevaprasakta* Mr. A. N. Raghavachar, M.A.	Financial Secretary to Government.

APPENDIX III.

Names of witnesses examined by the Mysore Prison Reforms Committee.

Officers in service.—

1. Mr. Abdulla Hussain Sheriff, B.A., Superintendent, Central Jail, Bangalore.
2. Mr. M. V. Govindaswamy, M.A., B.Sc., M.B.B.S., etc., Superintendent, Mental Hospital, Bangalore.
3. Mr. B. Venkatasubba Rao, B.A., M.B.B.S., M.R.C.P. (London), Medical Officer, Mysore Jail.
4. Mr. P. Shama Rao, B.A., L.M.S., Medical Officer, Insurance Department, Bangalore (once Jail Superintendent).
5. Mr. P. Parthasarathy, L.M.S., B.S.Sc., etc., Director of Public Health in Mysore, Bangalore.
6. Mr. T. M. Amir, B.A., Superintendent, Prisoners' Camp, Byramangala.

Retired Officers.—

1. Mr. T. Balakrishna, L.M.S., Retired Surgeon, Bangalore (once Jail Superintendent).
2. Mr. K. Siddaramappa, B.A., Retired Senior Assistant Commissioner (once Jail Superintendent).
3. Mr. S. Subba Rao, B.A., M.B., M.R.C.S., Retired Senior Surgeon and Inspector-General of Prisons, Bangalore.
4. Mr. Frank Noronha, M.B.C.M., D.P.M. (Eng.), Retired Superintendent, Mental Hospital, Bangalore (once Jail Superintendent).
5. Mr. M. Venkoba Rao, Retired Chief Jailor, Bangalore.
6. Mr. C. Machia, B.A., Retired Municipal Commissioner, Bangalore (once Jail Superintendent).

Other non-official gentlemen.—

1. Rev. A. Brockbank, Methodist Mission, Tumkur.
2. Mr. T. Subrahmanya, B.A., LL.B., Tumkur.
3. Mr. H. V. Kodandaramiah, Organizer of Backward and Depressed Classes Criminal Tribes, Holalkere.
4. Mr. S. Venkatasubbiah, Bangalore.
5. Mr. Veerakesari Sitharama Sastry, Bangalore.
6. Mr. T. Ramachandra, Member, Legislative Council, Bangalore

APPENDIX IV.

Institutions visited by the Mysore Prison Reforms Committee.

A. WITHIN THE MYSORE STATE.

Places.	*Institutions.*
Shimoga	The Sub-Jail.
Tirthahalli	Do
Byramangala	The Prisoners' Camp.
Mysore	The Mysore Jail.
Thippaganahalli	The Prisoner's Camp.
Bangalore	(1) The Central Jail. (2) The Mental Hospital.

B. OUTSIDE THE STATE.

(i) *Madras Presidency*—

Salem	The Habitual Jail.
Coimbatore	The Central Jail.
Tanjore	The Borstal School.
Chingleput	The Senior Certified School.
Madras	(1) The Penitentiary. (2) The Discharged Prisoners' Aid Society. (3) The Senior and Junior Certified Schools for Girls. (4) The Rescue Home for Junior Girls. (5) The Remand Home for Girls. (6) Dr. Varadappa Naidu's Home.

(ii) *Bombay Presidency*—

Hubli	The Criminal Tribes Settlement.
Dharwar	The Borstal School.
Poona	(1) The Hindu Widows Home Association. (A Certified School.) (2) Yeravada Industrial School. (3) The Female Prison. (4) The Central Prison, Yeravada.
Bombay	(1) The Byramjee Jeejeebhoy Home. (2) The David Sassoon Industrial School. (3) The Remand Home, Umarkhadi. (4) The Children's Home, Chembur. (5) The Shradhanand Anatha Mahila Ashrama. (A Certified School.)
Sholapur	The Industrial Settlement.

APPENDIX V.

DRAFT.

THE MYSORE PRISONS BILL.

An Act to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in Mysore, and to provide rules for the regulation of such prisons; His Highness the Maharaja is pleased to enact as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Mysore Prisons Act, 194 .

(2) It extends to the whole of Mysore.

(3) It shall come into force on the first day of 194 .

Repeal.

2. (1) On and after the said first day of 194 the Prisons Act, XXVI of 1870, which was extended to Mysore by Notification of the Government of India, Foreign Department, Judicial No. 246 I. J., dated the 4th September 1879, shall be repealed.

(2) But all rules and appointments made, directions given and orders issued under the said Act shall, so far as they are consistent with this Act, be deemed to have been respectively made, given and issued under this Act.

(3) Any enactment or document referring to the said Act shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act—

(1) "prison" means any jail or place used permanently or temporarily under the general or special orders of the Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(*a*) any place for the confinement of prisoners who are exclusively in the custody of the police;

(*b*) any place specially appointed by the Government under section 541 of the Code of Criminal Procedure, 1904; or

(*c*) any place which has been declared by the Government, by general or special order, to be a subsidiary jail:

(2) "criminal prisoner" means any prisoner duly committed to custody under the warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court-martial:

(3) "convicted criminal prisoner" means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1904:

(4) "civil prisoner" means any prisoner who is not a criminal prisoner:

(5) "remission system" means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails:

(6) "history-ticket" means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder :

(7) "Inspector General" means the Inspector General of Prisons :

(8) "Medical Subordinate" means an Assistant Surgeon, Apothecary or qualified Hospital Assistant : and

(9) "prohibited article" means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

Accommodation for prisoners.

4. The Government shall provide, for the prisoners in Mysore, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Inspector-General.

5. An Inspector General shall be appointed for Mysore and shall exercise, subject to the orders of the Government, the general control and superintendence of all prisons situated in Mysore.

Officers of prisons.

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the Government thinks necessary :

Temporary accommodation for prisoners.

7. Whenever it appears to the Inspector General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III.

DUTIES OF OFFICERS.

Generally.

Control and duties of officers of prisons.

8. All officers of a prison shall obey the directions of the Superintendent ; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section 59.

Officers not to have business dealings with prisoners.

9. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner.

Officers not to be interested in prison contracts.

10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison ; nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

Superintendent.

11. (1) Subject to the orders of the Inspector General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

(2) Subject to such general or special directions as may be given by the Government, the Superintendent of a prison other than a central prison shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector General all such orders and the action taken thereon.

Records to be kept by Superintendent.

12. The Superintendent shall keep, or cause to be kept, the following records :—

(1) a register of prisoners admitted ;
(2) a book showing when each prisoner is to be released ;
(3) a punishment-book for the entry of the punishments inflicted on prisoners for prison-offences ;
(4) a visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison ;
(5) a record of the money and other articles taken from prisoners ;

and all such other records as may be prescribed by rules under section 59.

Medical Officer.

Duties of Medical Officer.

13. Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the Government under section 58.

Medical Officer to report in certain cases.

14. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector General for information.

Report on death of prisoner.

15. On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely :—

(1) the day on which the deceased first complained of illness or was observed to be ill,

(2) the labour, if any, on which he was engaged on that day,
(3) the scale of his diet on that day,
(4) the day on which he was admitted to hospital,
(5) the day on which the Medical Officer was first informed of the illness,
(6) the nature of the disease,
(7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,
(8) when the prisoner died, and
(9) (in cases where a *postmortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the Medical Officer to be required.

Jailer.

Jailer.

16. (1) The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

(2) The Jailer shall not, without the Inspector General's sanction in writing, be concerned in any other employment.

Jailer to give notice of death of prisoner.

17. Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.

Responsibility of Jailer.

18. The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

Jailer to be present at night.

19. The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

Powers of Deputy and Assistant Jailers.

20. Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

Subordinate Officers.

Duties of gate-keeper.

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer.

Subordinate officers not to be absent without leave.

22. Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer.

Convict officers.

23. Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code.

CHAPTER IV.

Admission, Removal and Discharge of Prisoners.

Prisoners to be examined on admission.

24. (1) Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailer, a record of the state of the prisoner's health and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

(3) In the case of female prisoners, the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.

Effects of prisoners.

25. All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer.

Removal and discharge of prisoners.

26. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V.

Discipline of Prisoners.

Separation of prisoners.

27. The requisitions of this Act with respect to the separation of prisoners are as follows:—

(1) in a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners;

(2) in a prison where male prisoners under the age of eighteen are confined, means shall be provided for separating them altogether from other prisoners and for separating those of them who have arrived at the age of puberty from those who have not;

(3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners; and

(4) civil prisoners shall be kept apart from criminal prisoners.

Association and segregation of prisoners.

28. Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

Solitary confinement.

29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

Prisoners under sentence of death.

30. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer, and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

CHAPTER VI.

Food, Clothing and Bedding of Civil and Unconvicted Criminal Prisoners.

Maintenance of certain prisoners.

31. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

Restriction on transfer of food and clothing between certain prisoners.

32. No part of any food, clothing, bedding or other necessaries belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner; and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

Supply of clothing and bedding to civil and unconvicted criminal prisoners.

33. (1) Every civil prisoner and convicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative shall, within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner may be released.

CHAPTER VII.

Employment of Prisoners.

Employment of civil prisoners.

34. (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

(3) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished

with implements or are maintained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Employment of criminal prisoners.

35. (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

Employment of criminal prisoners sentenced to simple imprisonment.

36. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner.

CHAPTER VIII.

Health of Prisoners.

Sick prisoners.

37. (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoner to the Jailer.

(2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

Record of directions of Medical Officers.

38. All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as the Government may by rule direct, and the Jailer shall make an entry in its proper place stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make, and the date of the entry.

Hospital.

39. In every prison an hospital or proper place for the reception of sick prisoners shall be provided.

Power of Superintendent to send a prisoner to hospital or asylum for special treatment.

40. The Superintendent may, if in his opinion a prisoner requires special treatment in a hospital outside the prison or in a lunatic asylum, send him to such hospital or asylum, subject to the prisoner or any relative or friend of the prisoner executing such bond and abiding by such other conditions, if any, as the Government may by rule or order prescribe. Any period during which the prisoner is undergoing treatment in such hospital or asylum or spent by him in going thereto or returning therefrom shall be deemed to be part of the period of his detention in the prison.

CHAPTER IX.

VISITS TO PRISONERS.

Visits to civil and unconvicted criminal prisoners.

41. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that, so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

Search of visitors.

42. (1) The Jailer may demand the name and address of any visitor to a prisoner, and, when the Jailer has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

(2) In case of any such visitor refusing to permit himself to be searched, the Jailer may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in such record as the Government may direct.

CHAPTER X.

OFFENCES IN RELATION TO PRISONS.

Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.

43. Whoever, contrary to any rule under section 58, introduces or removes, or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article,

and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

and whoever, contrary to any such rule, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Power to arrest for offence under section 43.

44. When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a Police-officer, and thereupon such Police-officer shall proceed as if the offence had been committed in his presence.

Publication of penalties.

45. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section 43 and the penalties incurred by their commission.

CHAPTER XI.

PRISON-OFFENCES.

Prison-offences.

46. The following acts are declared to be prison-offences when committed by a prisoner :—

(1) such wilful disobedience to any regulation of the prison as shall have been declared by rules made under sectiod 58 to be a prison-offence;
(2) any assault or use of criminal force;
(3) the use of insulting or threatening language;
(4) immoral or indecent or disorderly behaviour;
(5) wilfully disabling himself from labour;
(6) contumaciously refusing to work;
(7) filing, cutting, altering or removing hand-cuffs, fetters, or bars without due authority;
(8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment;
(9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment;
(10) wilful damage to prison-property;
(11) tampering with or defacing history-tickets, records or documents;
(12) receiving, possessing or transferring any prohibited article;
(13) feigning illness;
(14) wilfully bringing a false accusation against any officer or prisoner;
(15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison-official; and
(16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

Punishment of such offences.

47. The Superintendent may examine any person touching any such offence, and determine thereupon and punish such offence by—

(1) a formal warning:

Explanation.—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and

recorded in the punishment-book and on the prisoner's history-ticket;

(2) change of labour to some more irksome or severe form for such period as may be prescribed by rules made by the Government;

(3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment;

(4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Government;

(5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen, for a period which shall not exceed three months;

(6) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Government;

(7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Government;

(8) separate confinement for any period not exceeding three months:

Explanation.—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners;

(9) penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the Government:

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week;

(10) cellular confinement for any period not exceeding fourteen days:

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement:

Explanation.—Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners;

(11) penal diet as defined in clause (9) combined with cellular confinement:

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters.

Plurality of punishments under section 47.

48. (1) Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely,—

(i) formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section;

(ii) penal diet shall not be combined with change of labour under clause (2) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with cellular confinement;

(iii) cellular confinement shall not be combined with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable;

(iv) no punishment shall be combined with any other punishment in contravention of rules made by Government.

(2) No punishment shall be awarded for any such offence so as to combine, with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence.

Award of punishments under sections 47 and 48.

49. (1) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector General.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

Punishments to be in accordance with foregoing sections.

50. Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

Medical Officer to certify to fitness of prisoner for punishment.

51. (1) No punishment of penal diet, either singly or in combination, or of change of labour under section 47, clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 12.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

Entries in punishment-book.

52. (1) In the punishment-book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, as also the

substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

(3) Against the entries relating to each punishment, the Jailor and Superintendent shall affix their initials as evidence of the correctness of the entries.

Procedure on committal of heinous offence.

53. If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction, may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 47:

Provided that the District Magistrate may transfer the case for inquiry and trial to any Magistrate of the first class: and

Provided also that no person shall be punished twice for the same offence.

Offences by prison-subordinates.

54. (1) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

(2) No person shall, under this section, be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

Extramural custody, control and employment of prisoners.

55. A prisoner, when being taken to or from any prison in which he may be lawfully confined or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.

Confinement in irons.

56. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector General with the sanction of the Government, so confine them.

Prisoners not to be ironed by Jailer except under necessity.

57. No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

Power to make rules.

58. The Government may make rules consistent with this Act—

(1) defining the acts which shall constitute prison-offences;
(2) determining the classification of prison-offences into serious and minor offences;
(3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof;
(4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code may or may not be dealt with as a prison-offence;
(5) for the award of marks and the shortening of sentences;
(6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape;
(7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released;
(8) for the classification of prisons and description and construction of wards, cells and other place of detention;
(9) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons;
(10) for the government of prisons and for the appointment, guidance, control, punishment and dismissal of all officers appointed under this Act;
(11) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost;
(12) for the employment, instruction and control of convicts within or without prisons;
(13) for defining articles, the introduction or removal of which into or out of prisons without due authority is prohibited;
(14) for classifying and prescribing the forms of labour and regulating the periods of rest from labour;
(15) for regulating the disposal of the proceeds of the employment of prisoners;
(16) for the classification and the separation of prisoners;
(17) for regulating the confinement of convicted criminal prisoners under section 28;
(18) for the preparation and maintenance of history-tickets;
(19) for the selection and appointment of prisoners as officers of prisons;
(20) for rewards for good conduct;
(21) for regulating the transfer of prisoners whose term of imprisonment is about to expire;
(22) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons;
(23) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends;
(24) for the appointment and guidance of visitors of prisons;

(25) for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under section 541 of the Code of Criminal Procedure, 1904, and to the officers employed, and the prisoners confined, therein ; and,

(26) in regard to the admission, custody, employment, dieting, treatment, and release of prisoners, and for other purposes consistent with this Act; and

(27) generally, for carrying into effect the purposes of this Act.

Exhibition of copies of rules.

59. Copies of rules under section 58, so far as they affect the government of prisons, shall be exhibited, both in English and in the Vernacular, in some place to which all persons employed within a prison have access.

Exercise of powers of Superintendent and Medical Officer.

60. All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may, in his absence, be exercised and performed by such other officer as the Government may appoint in this behalf either by name or by his official designation.

APPENDIX VI.

DRAFT.

THE MYSORE CHILDREN BILL.

WHEREAS it is expedient to make provision for the custody and protection of children and for the custody, trial and punishment of juvenile offenders, His Highness the Maharaja is pleased to enact as follows: — Preamble.

PART I.

PRELIMINARY.

1. (1) This Act may be called the Mysore Children Act, — . Short title.

(2) It extends to the whole of Mysore. Extent.

(3) The Government may, by notification in the official Gazette from time to time, apply the whole or any portion of this Act to children or juvenile offenders or any class thereof in any local area in Mysore from such date as may be specified in the notification, and may in like manner cancel or modify any such notification. Commencement.

(4) The Mysore Juveniles Act, XVI of 1939, is hereby repealed. Repeal.

3. In this Act, unless there is anything repugnant in the subject or context— Interpretation clause.

(*a*) "Child" means a person under the age of sixteen years and, when used with reference to a child sent to a certified school, applies to that child during the whole period of his detention, notwithstanding that the child may have attained the age of sixteen years;

(*b*) "juvenile offender" means any child who has been found to have committed an offence punishable with transportation or imprisonment;

(*c*) "certified school" means a school established under sub-section (1) or certified under sub-section (2), of section 45 of this Act, or any other educational institution certified in this behalf by the Government;

(*d*) "guardian", in relation to a juvenile offender or child, includes any person who, in the opinion of the court having cognizance of any proceedings in relation to the juvenile offender or child, or in which the juvenile offender or child is concerned, has for the time being the actual charge of or control over the juvenile offender or child;

(*e*) "fit person" in relation to the care of any child, includes any society or body corporate established for the reception or protection of poor children or the prevention of cruelty to children which undertakes to bring up or to give facilities for bringing up any child entrusted to its care in conformity with the religion of its birth;

(*f*) "place of safety" includes any orphanage, hospital, surgery or any other suitable place or institution the occupier or manager of which is willing temporarily to receive a child; or, where such orphanage, hospital, surgery or other suitable place or institution is not available, in case of a male child only, a police station;

(*g*) "Brothel" means any house, room or place, or any part thereof, occupied or let or intended to be occupied or let as a single tenement, which is habitually used by more than one person for the purposes of prostitution;

(*h*) "prescribed" means prescribed by rules under this Act;

(*i*) "juvenile court" means a separate court established under sub-section (1) of section 57 of this Act, and includes a court hearing charges against children under sub-section (2) of that section;

(*j*) "Caning" means the punishment authorized under the Whipping Act, 1903, and inflicted with a cane, less than half an inch in diameter, as directed by the Government under section 392 of the Code of Criminal Procedure, 1904;

(*k*) "Probation officer" means an officer appointed under section 31.

Powers of courts.

5 The powers conferred on courts by this Act shall be exercised only by—(*a*) the High Court, (*b*) a Court of Session, (*c*) a District Magistrate, (*d*) a Sub-divisional Magistrate, (*e*) any Magistrate of the first class, (*f*) any Magistrate of the second class specially empowered by the Government to exercise all or any of such powers, (*g*) any Juvenile Court constituted under section 57, and may be exercised by such courts whether the case comes before them originally or on appeal or revision.

Procedure when Magistrate is not empowered to pass an order under this Act.

6. (1) When any magistrate not empowered to pass an order under this Act is of opinion that a child brought before him is a proper person to be sent to a certified school or to be dealt with in any other manner in which the case may be dealt with under this Act, he shall record such opinion and submit his proceedings and forward the child to the District Magistrate to whom he is subordinate or the Magistrate presiding over the nearest Juvenile Court having jurisdiction in the case.

(2) The District Magistrate or the Magistrate presiding over the Juvenile Court to whom the proceedings are so submitted may make such further inquiry, if any, as he may think fit, and may pass such order dealing with the case as he might have passed if the child had originally been brought before or tried by him.

PART II.

MEASURES FOR THE CUSTODY AND PROTECTION OF CHILDREN WHO ARE DESTITUTES, ETC.

Children found homeless, destitute, etc.

7. (1) Any police-officer or other person authorized in this behalf in accordance with rules made by the Government may bring before a court any person who, in his opinion, is a child and who—

(*a*) has no home, settled place of abode or visible means of subsistence, or has no parent or guardian who exercises regular and proper guardianship; or

(*b*) is found destitute and his parents or surviving parent or other guardian, or, in the case of an illegitimate child, his mother or other guardian, are or is, as the case may be, undergoing transportation or imprisonment; or

(*c*) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of such person; or

(*d*) frequents the company of any reputed thief or prostitute; or
(*e*) is lodging or residing in or frequenting a house used by a prostitute for the purposes of prostitution; or
(*f*) is otherwise likely to fall into bad association or to be exposed to moral danger or to enter upon a life of crime:

Provided that when any such child has a parent or guardian who has the actual charge or control over the child, the police-officer or other person as aforesaid shall, in the first instance, make a report to the nearest court or magistrate having jurisdiction under this Act. Such court or magistrate may call upon such parent or guardian to show cause why the said child should not, during the pendency of the proceedings, be removed from his care; and may, on suitable sureties being offered for the safety of such child and for his being brought before the court, permit the child to remain in the actual charge or control of his parents or guardian, or may order his removal till the court passes orders under this Act.

(2) The court before which a child is brought as coming within one of these descriptions shall examine the information and record the substance of such examination, and shall, if it thinks that there are sufficient grounds for inquiring further, fix a date for such inquiry.

(3) On the date fixed for the production of the child or for the inquiry, or on any subsequent date to which the proceedings may be adjourned, the court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order sending the child to a certified school should not be passed, and make any further inquiry it thinks fit.

(4) If the court is satisfied on the inquiry that such person is a child and is as described within the provisions of sub-section (1) and that it is expedient so to deal with him, the court may order him to be sent to a certified school or may order him in the prescribed manner to be committed to the care of a relative or other fit person named by the court, such relative or other person being willing to undertake such care until such child attains the age of eighteen years or for any shorter period.

(5) The court which makes an order committing a child to the care of a relative or other fit person may, when making such order, require such relative or other person to execute a bond, with or without sureties, as the court may require, to be responsible for the good behaviour of the child and for the observance of such other conditions as the court may impose for securing that the child may lead an honest and industrious life.

(6) The court which makes an order committing a child to the care of a relative or other fit person under this section may, in addition, order that he be placed under the supervision of a probation officer or other person named by the court:

Provided that, when the Magistrate thinks fit, he may allow such child to remain in the custody of a parent or guardian with a direction that he be placed under the supervision of a probation officer or other person named by the court on such parent or guardian giving an undertaking with or without sureties in a prescribed form to the court, and the court may from time to time adjourn the enquiry and compel the production of the child in court to satisfy it that the said undertaking is being carried out.

Uncontrollable children.

8. Where the parent or guardian of a child proves to a court that he is unable to control the child and that he desires the child to be sent to a certified school, the court, if satisfied on inquiry that it is expedient so to deal with the child and that the parent or guardian understands the results which will follow, may order him to be sent to any such school.

PART III.

OFFENCES AGAINST CHILDREN AND THEIR PREVENTION.

Punishment for cruelty to children.

9. (1) Whoever having the actual charge of or control over a child abandons, exposes or wilfully neglects or ill-treats such child in a manner likely to cause such child unnecessary suffering or injury to his health, shall be punishable with imprisonment of either description for a term which may extend to six months or with fine which may extend to two hundred rupees or with both.

(2) For the purposes of this section injury to health includes injury to, or loss of, sight or hearing and injury to limb or organ of the body and any mental derangement, and a parent or other person legally liable to maintain a child shall be deemed to have neglected him in a manner likely to cause injury to his health if he wilfully fails to provide adequate food, clothing, medical aid or lodging for the child.

(3) A person may be convicted of an offence under this section notwithstanding the actual suffering or injury to health was obviated by the action of another person.

(4) Nothing in this section shall be construed to take away or affect the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child.

Causing or allowing child to beg.

10. (1) Whoever for his own profit causes any child or, having the actual charge of or control over a child, allows that child, to be in any street, premises or place for the purpose of begging or receiving alms, or of inducing the giving of alms, shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to one hundred rupees or with both.

(2) The Government may by notification in the official gazette exempt from liability to punishment under this section any class of persons in any district or place where this Act may be in operation.

Penalty for being drunk while in charge of a child.

11. If any person is found drunk in any highway or other public place whether a building or not or on any licensed premises, while having the charge of a child apparently under the age of seven years, and if such person is incapable by reason of his drunkenness of taking due care of the child, he may be arrested and shall, if the child is under that age, be punishable with fine which may extend to fifty rupees.

Presumption as to age of child.

Explanation.—For the purposes of this section a child shall be deemed to be under the age of seven if it appears to the court to be under that age unless the contrary is proved.

Penalty for giving intoxicating liquor to a child.

12. Whoever in any highway or other public place whether a building or not or on any licensed premises gives, or causes to be given, to any child any intoxicating liquor except upon the order of a duly

qualified medical practitioner, or in case of sickness or other urgent cause, shall be punishable with fine which may extend to fifty rupees.

Seizure by police officer of any bidis, cigarettes, tobacco or smoking mixture in possession of a child.

13. It shall be the duty of a police officer to seize any bidis, cigarettes, tobacco or smoking mixture in the possession of a child whom he finds smoking in any street or public place, and any bidis, cigarettes, tobacco or smoking mixture so seized shall be forfeited to Government; and every such police officer shall be authorised to search any boy so found smoking but not a girl.

Penalty for inciting a child to bet or borrow.

14. Whoever, by words either spoken or written or by signs, or otherwise, incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites or attempts to incite a child to borrow money or to enter into any transaction involving the borrowing of money, shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Penalty for taking pawn from a child.

15. Whoever takes an article in pawn from a child whether offered by that person on his own behalf or on behalf of any other person shall be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Allowing child to be in brothel.

16. Whoever, having the actual charge of or control over a child between the ages of four and sixteen, allows that child to reside in or frequent a brothel, shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Causing or encouraging seduction, etc., of young girl.

17. (1) Whoever, having the actual charge of or control over a girl under the age of sixteen years, causes or encourages the seduction or prostitution of that girl or causes or encourages any one other than her husband to have sexual intercourse with her, shall be punishable with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

(2) For the purposes of this section a person shall be deemed to have caused or encouraged the seduction or prostitution of, or the unlawful sexual intercourse, with a girl who has been seduced or become a prostitute or with whom such sexual intercourse has been had, if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of any prostitute or person of known immoral character.

Young girls exposed to risk of seduction, etc., or cruelly treated.

18. If it appears to a court on the complaint of any person that a girl under the age of sixteen is being treated with cruelty by her parent or guardian or that such girl with the knowledge of her parent or guardian is exposed to the risk of seduction or prostitution, or living a life of prostitution, the court may direct the parent or guardian to enter into a recognizance to exercise due care and supervision in respect of such girl.

Detention of child in place of safety.

19. (1) Any police officer not below the rank of Sub-Inspector, or a police officer or a person authorized in this behalf in accordance with rules made by the Government, may take to a place of safety any child in respect of whom an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, 1860, as in force in Mysore, has been, or there is reason to believe has been, committed.

(2) A child so taken to a place of safety and also any child who seeks refuge in a place of safety may there be detained until he can be brought before the court, but such detention shall not, in the absence of a special order of the court, exceed a period of twenty-four hours exclusive of the time necessary for the journey from the place of detention to the court, and the court may make such order as is mentioned in the next following sub-section, or may cause the child to be dealt with as circumstances may admit and require until the charge made against any person in respect of any offence as aforesaid with regard to the child has been determined by the conviction, discharge or acquittal of such person.

(3) Where it appears to the court that an offence as aforesaid has been committed in respect of any child who is brought before the court and that it is expedient in the interests of the child that an order should be made under this sub-section, the court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for a charge to be made against some person for having committed the offence and, if a charge is made against any person within that time, until the charge has been determined by the conviction, discharge or acquittal of that person and, in case of conviction, for such further time not exceeding one month as the court which convicted may direct, and any such order may be carried out notwithstanding that any person claims the custody of the child.

Disposal of child by order of court.

20. (1) Where any person having the actual charge of or control over a child has been—

(*a*) convicted of committing in respect of such child an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, as in force in Mysore; or

(*b*) committed for trial for any such offence; or

(*c*) bound over to keep the peace towards such child by any court,

that court may, either at the time when the person is so convicted, committed for trial or bound over or at any other time, order that the child be taken out of the charge and control of the person so convicted, committed for trial or bound over and be committed to the care of a relative of the child or other fit person named by the court (such relative or other person being willing to undertake such care) until he attains the age of eighteen years or for any shorter period, and that court or any court of like jurisdiction may, of its own motion, or on the application of any person, from time to time by order renew, vary and revoke any such order.

(2) The court which makes an order committing a child to the care of a relative or other fit person under this section may require such relative or other person to execute a bond, with or without sureties, to be responsible for the good behaviour of the child and for the observance of such other conditions as the court may impose for securing that the child may lead an honest and industrious life and, in addition, order that the child be placed under the supervision of a probation officer or other person named by the court.

(3) If the child has a parent or guardian, no order shall be made under this section unless—

(i) the parent or legal guardian has been convicted of or committed for trial for the offence or has been bound over to keep the peace towards the child or cannot be found; or

(ii) the court has reason to believe that the parent or legal guardian has either been party or privy to the offence or has by any act or omission facilitated the offence, or is otherwise unfit to have the care of the child :

Provided that, if the court thinks fit, it may, on such parent or guardian giving an undertaking with or without sureties in a prescribed form to the court, allow such child to remain in the custody of such parent or legal guardian subject to the supervision of a probation officer or other person named by the court.

(4) Every order under this section shall be in writing, and any such order may be made by the court in the absence of the child; and the consent of any person to undertake the care of the child in pursuance of any such order shall be taken in such manner as the court may think sufficient to bind him.

(5) Where an order is made under this section and the conviction or order binding the person to keep the peace is set aside or the person is acquitted, the order shall forthwith be void except with regard to anything that may have been lawfully done under it.

(6) The court may, instead of ordering the child to be committed to the care of a relative or other fit person, order that the child shall be sent to a certified school.

Warrant to search for child ill-treated.

21. (1) If it appears to a magistrate duly empowered under this Act, from information on oath or solemn affirmation laid by any person who in the opinion of the magistrate is acting in the interests of a child, that there is reasonable cause to suspect that—

(*a*) the child has been or is being wilfully ill-treated or neglected in any place within its jurisdiction in a manner likely to cause the child unnecessary suffering or to be injurious to his health, or.

(*b*) that an offence punishable under this Act or under Chapter XVI of the Indian Penal Code, as in force in Mysore, has been or is being committed in respect of the child,

the magistrate may issue a summons in the first instance against the person or persons in whose care, custody or control such child is, to produce forthwith the said child in court, or may issue a warrant authorizing any police officer named therein to search for such child, and, if it is found that he has been or is being wilfully ill-treated or neglected in manner aforesaid or that any offence as aforesaid has been or is being committed in respect of the child, to take him to and detain him in a place of safety until he can be brought before the magistrate, or authorizing any police officer to remove the child with or without search, to a place of safety and detain him there until he can be brought before the magistrate; and the magistrate before whom the child is brought may commit him to the care of a relative or other

fit person in like manner as if the person in whose charge or control he was had been committed for trial for an offence punishable under this Act:

Provided that, if the said child is in the custody or control of a parent or guardian who being a female does not, according to the customs and manners of the country, appear in public, the magistrate shall ordinarily issue a summons, and the person to whom such summons is issued shall be deemed to have complied with the summons if instead of personally attending in court she causes the said child to be produced in court.

(2) A magistrate issuing a warrant under this section may in his discretion by the same warrant direct that any person accused of any offence in respect of the child be apprehended and brought before him or, direct that, if such person executes a bond with sufficient sureties for his attendance before the magistrate at a specified time and thereafter until otherwise directed by the magistrate, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(3) The police officer executing the warrant shall be accompanied by the person laying the information if such person so desire, and may also, if the magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(4) In any information or warrant under this section the name of the child shall be given if known.

Compensation for false and frivolous or vexatious information.

22. (1) If, in any case in which an information has been laid by any person under the provisions of section 21, the magistrate after such inquiry as he may deem necessary is of opinion that such information was false and either frivolous or vexatious, the magistrate may for reasons to be recorded in writing direct that compensation to such an amount not exceeding one hundred rupees as he may determine be paid by such informer to the person against whom the information was laid.

(2) Before making any order for the payment of compensation, the magistrate shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show.

(3) The magistrate may by the order directing payment of the compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a period of thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code, as in force in Mysore, shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under this section shall by reason of such order be exempted from any civil or criminal liability in respect of the information given by him, but any amount paid as compensation shall be taken into account in any subsequent civil suits relating to such matter.

(6) An informer who has been ordered to pay compensation exceeding fifty rupees may appeal from the order as if such informer had been convicted on a trial held by the magistrate directing the payment of compensation.

(7) When an order for the payment of compensation is made in a case which is subject to appeal under sub-section (6), the compensation shall not be paid to the person ordered to receive it before the period allowed for the presentation of the appeal has elapsed or, if an appeal is presented, before the appeal has been decided; and where such order is made in a case which is not subject to appeal the compensation shall not be paid before the expiration of one month from the date of the order.

PART IV.

JUVENILE OFFENDERS.

Bail of children arrested.

23. Where a person apparently under the age of sixteen years is arrested on a charge of a non-bailable offence and cannot be brought forthwith before a court, the officer in charge of the police station to which such person is brought may in any case, and shall, unless the charge is one of culpable homicide or any other offence punishable with death or transportation, release him on bail if sufficient security is forthcoming, unless for reasons to be recorded in writing the officer believes that such release would bring him into association with any reputed criminal:

Provided that, when any girl apparently under the age of sixteen years is arrested, the officer in charge of a police station who has made the arrest or before whom the girl is produced shall release her at once if any person who in his opinion is a sufficient surety enters into a bond for such sum of money as the officer considers sufficient to produce her before the court and to appear in her stead if required at the police station.

Custody of children not discharged on bail after arrest.

24. Where a person apparently under the age of sixteen years having been arrested is not released under section 23 or otherwise, the officer in charge of the police station shall cause him to be detained in the prescribed manner until he can be brought before a court.

Remand or committal to custody.

25. A court, on remanding or committing for trial a child who is not released on bail, shall order him to be detained in the prescribed manner.

Attendance at court of parent of child charged with an offence, etc.

26. (1) Where a child is charged with any offence or is brought before a court on an application for an order to send him to a certified school, his parent or guardian may in any case, and shall, if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.

(2) Where the child is arrested, the officer in charge of the police station to which he is brought shall cause the parent or guardian of the child, if he can be found, to be warned to attend at the court before which the child will appear.

(3) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of or control over the child.

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(4) The attendance of the parent of a child shall not be required under this section in any case where the child was before the institution of the proceedings removed from the custody or charge of his parent by an order of a court.

(3) Nothing in this section shall be deemed to require the attendance of the mother or the female guardian of a child if such mother or female guardian does not according to the customs and manners of the country appear in public, but any such mother or female guardian may appear before the court by a pleader or agent.

Sentences that may not be passed on child.

27. Notwithstanding anything to the contrary contained in any law, no child shall be sentenced to death or transportation or committed to prison :

Provided that a child who is fourteen years of age or upwards may be committed to prison where the court certifies that he is of so unruly or of so depraved a character that he is not a fit person to be sent to a certified school and that none of the other methods in which the case may legally be dealt with is suitable.

No proceedings under Chapter VIII of Criminal Procedure Code against a child.

28. Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1904, no proceedings shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code.

Commitment of child to a certified school.

29. (1) Where a child is found to have committed an offence punishable with transportation or imprisonment, the court, if satisfied on enquiry that it is expedient so to deal with the child, may order him to be sent to a certified school.

(2) Where prior to the commencement of this Act a juvenile offender has been sentenced to transportation or imprisonment, the Government may direct that in lieu of undergoing or completing such sentence he shall, if under the age of fourteen years, be sent to a certified school ; and thereupon the offender shall be subject to all the provisions of this Act as if he had been originally sentenced to detention in such school.

Power to discharge juvenile offender or to commit him to suitable custody.

30. (1) A court may, if it shall think fit, instead of directing any juvenile offender to be detained in a certified school, order him to be—

(*a*) discharged after due admonition, or.

(*b*) released on probation of good conduct and committed to the care of his parent or guardian or other adult relative or other fit person, on such parent, guardian, relative or person executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the juvenile offender for any period not exceeding three years and for the observance of such other conditions as the Court may impose for securing that the juvenile offender may lead an honest and industrious life. The Court may order that the juvenile offender released under this clause be placed under the supervision of a probation officer.

(2) If it appears to the Court, on receiving a report from the probation officer or otherwise, that the offender has not been of good behaviour during the period of his probation, it may, after making such enquiry as it deems fit, order the offender to be detained in a certified school.

Appointment of probation officers.

31. (1) A probation officer shall be—

(*a*) any person appointed to be a probation officer by the Government, or

(*b*) any person appointed for this purpose by a society recognised in this behalf by the Government, or

(*c*) when there is no person appointed under clause (a) or (b), any other person appointed from time to time by the Court for any particular case subject to general or special orders of the Government.

(2) A probation officer, in the exercise of his duties under any supervision order, shall be subject to the control of the District Magistrate of the district in which the Court which passes any order under this Act in respect of the child is situate.

Duties of probation officers.

32. A probation officer shall, subject to the rules made under this Act and to the directions of the Court—

(*a*) visit or receive visits from the child or the juvenile offender at such reasonable intervals as may be specified in the order passed by the Court or, subject thereto, as the probation officer may think fit;

(*b*) see that the relative of the child or the juvenile offender, as the case may be, or other person to whose care such child or juvenile offender is committed, observes the conditions of the bond;

(*c*) report to the Court as to the behaviour of the child or the juvenile offender, as the case may be;

(*d*) advise, assist and befriend the child or the juvenile offender and when and where necessary, endeavour to find his suitable employment; and

(*e*) perform any other duty which may be prescribed.

Power to order parent to pay fine, etc., instead of child.

33. (1) Where a child is found to have committed an offence punishable with fine and the court is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, the court may in any case, and shall if the child is under fourteen years of age, order that the fine be paid by the parent or guardian of the child, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child.

(2) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so; but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(3) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1904.

(4) A parent or guardian may appeal against any such order as if it had been an order passed in proceedings against himself.

Detention in the case of certain crimes committed by children.

34. (1) When a child is found to have committed an offence of so serious a nature that the court is of opinion that no punishment which, under the provisions of this Act, it is authorised to inflict is sufficient, the court shall order the offender to be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the Government,

(2) Notwithstanding the provisions of section 27, the Government may order any such child to be detained in such place and on such conditions as it thinks fit, and while so detained the child shall be deemed to be in legal custody :

Provided that no period of detention so ordered shall exceed the maximum period of imprisonment to which the child could have been sentenced for the offence committed.

Methods of dealing with children charged with offences.

35. (1) Where a child charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Act enabling the court to deal with the case, the case should be dealt with, namely, whether,

(*a*) by discharging the offender after due admonition ; or

(*b*) by committing the offender to the care of his parent, guardian, other adult relative, or other fit person, on such parent, guardian, relative or person executing a bond to be responsible for his good behaviour ; or

(*c*) by so discharging the offender and placing him under the supervision of a person named by the court ;

(*d*) by releasing the offender on probation of good conduct, or

(*e*) by sending the offender to a certified school ; or

(*f*) by sentencing the offender to caning, administered by way of cuts not exceeding six on each hand, in cases where the conduct of the offender has been such as to lead the court to believe that no other punishment would be effective ; or

(*g*) by ordering the offender to pay a fine ; or

(*h*) by ordering the parent or guardian of the offender to pay a fine ; or

(*i*) where the offender is a child of fourteen years of age or upwards, by sentencing him to imprisonment ; or

(*j*) by dealing with the case in any other manner in which it may legally be dealt with :

Provided that nothing in this section shall be construed as authorizing the court to deal with any case in any manner in which it could not deal with the case apart from this section.

(2) Where a child is charged with an offence punishable with fine only, and is dealt with under clause (*g*) of sub-section (1), the court may, in default of payment of fine, order the offender to be sent to a certified school for a period not exceeding three years.

Investigation of character and circumstances.

36. For the purpose of determining the sentence or order which a court ought to pass or make under this Part against any person tried by or brought before it, the court shall, after recording its finding on the facts of the case, have regard to the character of the person and the circumstances in which he is living as disclosed by the facts of the case or, on further inquiry, by any other evidence or information.

PART V.

PROHIBITION OF PUBLICATION OF NAMES, ADDRESSES OR OTHER DETAILS CONCERNING CHILDREN INVOLVED IN OFFENCES.

Penalty for publishing names and addresses of children involved in offences.

37. (1) No report in any newspaper or news-sheet of any offence by or against a child or of any proceedings in any Court relating to such offence shall disclose the name, address or school, or include any particulars calculated to lead to the identification of any such child, nor shall any picture be published as being or including a picture of any such child.

(2) Any person who publishes any report or picture in contravention of the provisions of this section shall be punishable with imprisonment of either description for a term not exceeding two months or with fine or with both.

PART VI.

MAINTENANCE AND TREATMENT OF PERSONS SENT TO CERTIFIED SCHOOLS OR COMMITTED TO THE CARE OF RELATIVES OR OTHER FIT PERSONS.

Contribution of parent

38. (1) The Court which makes an order for the detention of a child or youthful offender in a certified school or for the committal of a child or youthful offender to the care of a relative or other fit person may make an order on the parent or other person liable to maintain the child, or youthful offender, to contribute to his maintenance, if able to do so, in the prescribed manner.

(2) The Court before making any order under sub-section (1) shall inquire into the circumstances of the parent or other person liable to maintain the child or youthful offender and shall record the evidence, if any, in the presence of the parent or such other person as the case may be or, when his personal attendance is dispensed with in the presence of his pleader.

(3) Any order made under this section may from time to time be varied by the court.

(4) The persons liable to maintain a child or youthful offender shall for the purpose of sub-section (1) include in the case of illegitimacy his putative father :

Provided that where the child, or youthful offender is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1904, the Court shall not ordinarily make an order for contribution against the putative father, but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named, to be applied by him or them, as the case may be, towards the maintenance of the child or youthful offender.

(5) Any order under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1904.

Boarding out of children.

39. The managers of a certified school to which a child under the age of eight years is sent may, with the consent of the Chief Inspector, board the child out with any suitable person until the child

reaches the age of ten years and thereafter for such longer period, with the consent of the Chief Inspector, as the managers consider to be advisable in the interest of the child, subject to the exercise by the managers of such powers as to supervision, recall, and otherwise as may be prescribed; and where a child is so boarded out he shall nevertheless be deemed for the purposes of this Act to be a child detained in the school, and the provisions of this Act shall apply accordingly, subject to such necessary adaptations as may be made by the Government.

Placing out on licence.

40. (1) Where a child or youthful offender is detained in a certified school, the managers of the school may at any time, with the consent of the Chief Inspector, by licence permit the child or juvenile offender on the conditions prescribed in this behalf to live with any trustworthy and respectable person named in the licence willing to receive and take charge of him with a view to educate him or train him for some useful trade or calling.

(2) Subject to the prescribed conditions, the Chief Inspector may, on the recommendation of the visitors or managers of a certified school, at any time after the expiration of six months from the commencement of the detention of a juvenile offender in a certified school, and if satisfied that there is a reasonable probability that the juvenile offender will abstain from crime and lead a useful and industrious life, release such offender from the school and grant him a written licence in the prescribed form and on the prescribed conditions, permitting him to live under the supervision and authority of such responsible person or society approved by the Chief Inspector as may be willing to take charge of the offender.

(3) Any licence granted under sub-section (1) or (2) shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

(4) The managers of the school or the Chief Inspector, as the case may be, may at any time by order in writing revoke any such licence, and order the child or juvenile offender to return to the school and shall do so at the desire of the person or society with whom or under whose supervision the child or juvenile offender is licensed to live. If the child or juvenile offender refuse or fails to return to the school, the managers of the school or the Chief Inspector, as the case may be, may, if necessary, arrest or cause to be arrested, the child or juvenile offender and take him or cause him to be taken back to the school.

(5) When a licence has been revoked or forfeited and the child or juvenile offender refuses or fails to return to the school, the Court may, if satisfied by information on oath or solemn affirmation that there is reasonable ground for believing that his parent or guardian could produce the child or juvenile offender, issue a summons requiring the parent or guardian to attend at the Court on such a day as may be specified in the summons and to produce the child or juvenile offender, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, be punished with a fine which may extend to fifty rupees.

(6) Where a parent or guardian is directed to pay a fine under this section the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1904.

(7) The time during which a child or juvenile offender is absent from a certified school in pursuance of a licence under this section shall be deemed to be part of the time of his detention in the school; provided that, where a child or juvenile offender has failed to return to the school on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school.

41. Whoever—

Penalty for abetting escape of juvenile offender or child.

(*a*) knowingly assists or induces, directly or indirectly, a child or juvenile offender detained in or placed out on license from a certified school to escape from the school or from any person with whom he is placed out on licence, or any child to escape from the person to whose care he is committed under the provisions of this Act;

(*b*) knowingly harbours, conceals, or prevents from returning to school or to any person with whom he is placed out on licence or to whose care he is committed under this Act, a child, or juvenile offender, who has so escaped, or knowingly assists in so doing—

shall be punishable with imprisonment of either description for a term which may extend to two months or with a fine which may extend to two hundred rupees, or with both.

Period of detention.

42. The period for which a child or juvenile offender is to be detained in a certified school shall be specified in the order in pursuance of which he is sent there, and shall be such period not being less than two years in the case of a juvenile offender who at the date of the order is over the age of fifteen years and three years in the case of other juvenile offenders as to the court may seem proper for his teaching and training, but not in any case extending beyond the time when he will, in the opinion of the court, attain the age of eighteen years.

Discharge and transfer

43. (1) The Government may at any time order a child or juvenile offender to be discharged from a certified school, either absolutely or on such conditions as the Government approves.

(2) The Government may order a juvenile offender over the age of sixteen years detained in a certified school to be transferred to a Borstal School established under the Mysore Borstal Schools Act—, in the interest of discipline or for other special reasons:

Provided that the whole period of the detention of the child or juvenile offender shall not be increased by the transfer.

(3) Upon the transfer of a juvenile offender to a Borstal School under sub-section (2), the provisions of the Mysore Borstal Schools Act,—, shall apply to such offender as if he had been originally ordered to be detained in a Borstal School under that Act.

The Government may at any time in its discretion discharge a child from the care of any person to whose care he is committed under this Act, either absolutely or on such conditions as the Government approves, and may, if it thinks fit, make rules in relation to children so committed to the care of any person and to the duties of such persons with respect to such children.

Transfer from one certified school to another

44. The Chief Inspector may direct any child or juvenile offender to be transferred from one certified school to another:

Provided that the total period of detention of the child or juvenile offender shall not be increased by such transfer.

PART VII.

CERTIFIED SCHOOLS AND OTHER INSTITUTIONS.

Establishment and certification of schools.

45. (1) The Government may establish and maintain schools for the reception of children and juvenile offenders.

(2) The Government may certify that any school or other educational institution not established under sub-section (1) is fit for the reception of children or juvenile offenders.

Management of schools.

46. (1) For the control and management of every school established under sub-section (1) of section 45 a superintendent and a committee of visitors shall be appointed by the Government, and such superintendent and committee shall be deemed to be the managers of the school for the purposes of this Act.

(2) Every school certified under sub-section (2) of section 45 shall be under the management of a governing body who shall be deemed to be the managers of the school for the purposes of this Act.

Inspection of schools.

47. (1) The Government may appoint a Chief Inspector of certified schools and such number of inspectors and assistant inspectors as it thinks advisable to assist the chief inspector; and every person so appointed to assist the chief inspector shall have such of the powers and duties of the chief inspector as the Government directs but shall act under the direction of the chief inspector.

(2) Every certified school shall, at least once in every six months, be inspected by the Chief Inspector of certified schools, or by an inspector or assistant inspector: Provided that where any such school is for the reception of girls only and such inspection is not made by the chief inspector, the inspection shall where practicable be conducted by a woman.

Power of inspectors.

48. A certified school shall be liable to inspection at all times and in all its departments by the Chief Inspector or inspector or assistant inspector.

Medical inspection.

49. Any registered medical practitioner empowered in this behalf by the Government may visit any certified school at any time with or without notice to its managers in order to report to the Chief Inspector on the health of the inmates and the sanitary condition of the school.

Power of Government to withdraw certificate.

50. The Government, if dissatisfied with the condition, rules, management or superintendence of a certified school, may at any time by notice served on the managers of the school declare that the certificate of the school is withdrawn as from a time specified in the notice, and at that time the withdrawal of the certificate shall take effect and the school shall cease to be a certified school:

Provided that the Government may, if it thinks fit, instead of so withdrawing the certificate, by notice served on the managers of the school, prohibit the admission of children or juvenile offenders to the school for such time as may be specified in the notice or until the notice is revoked:

Provided also that, before the issue of notice under this section or under the first proviso thereto, a reasonable opportunity shall be given to the managers of the school to show cause why the certificate shall not be withdrawn or admission to the school shall not be prohibited as the case may be.

Resignation of certificate by managers

51. The managers of a certified school may, on giving six month's notice in writing to the Government through the Chief Inspector of their intention so to do, resign the certificates of the school, and accordingly at the expiration of six months from the date of the notice, unless before that time the notice is withdrawn, the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

Effect of withdrawal or resignation of certificate.

52. A child or juvenile offender shall not be received into a certified school in pursuance of this Act after the date of the receipt by the managers of the school of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate; but the obligation hereinafter mentioned of the managers to teach, train, lodge, clothe and feed any children or juvenile offenders detained in the school at the respective dates aforesaid shall, except so far as the Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

Disposal of inmates on withdrawal or resignation of certificate.

53. When a school ceases to be a certified school, the children or juvenile offenders detained therein shall be either discharged absolutely or on such conditions as the Government may impose or transferred by order of the Government to some other certified school in accordance with the provisions of this Act relating to discharge and transfer.

Auxiliary homes.

54. The Government may establish auxiliary homes for the reception of any inmates or any classes of inmates of certified schools or may certify any other such home heretofore established or which hereafter may be established by any other agency, and the certificates may be withdrawn or resigned in like manner as a certificate of a school, and every such home shall, for such purposes as are specified by the Government, be treated as part of the certified school or schools to which it is attached.

Liabilities of managers.

55. The managers of a certified school not established by the Government may decline to receive any child or juvenile offender proposed to be sent to them in pursuance of this Act, but when they have once accepted any such child or juvenile offender, they shall be deemed to have undertaken to teach, train, lodge, clothe and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school.

Inspection of institutions for reception of poor children.

56. (1) The Government may cause any institution for the reception of poor children supported wholly or partly by voluntary contributions, and not liable to be inspected by or under the authority of any department of the Government, to be visited and inspected from time to time at all reasonable hours, by persons appointed by it for the purpose of securing the health and welfare of the children and the sanitation of the premises.

(2) Any person so appointed shall have power to enter the institution at all reasonable hours and to make a complete inspection thereof and of all registers, relating thereto for the aforesaid purposes. Any person who obstructs him in the execution of his duties shall be liable on conviction to a fine not exceeding fifty rupees.

(3) Where any such institution is carried on in accordance with the principles of any particular religious denomination, the Government shall, if so desired by the managers of the institutions, appoint,

where practicable, a person of that denomination to visit and inspect the institutions.

(4) Where any such institution is for the reception of girls only, the inspection shall, where practicable, be conducted by a woman.

PART VIII.

JUVENILE COURTS.

Juvenile Courts.

57. (1) The Government may provide for the establishment in any area of one or more separate courts for the conduct of proceedings under this Act at which the attendance of the child is required:

Provided that, where a child is accused of an offence triable jointly with any other person not being a child, nothing in this sub-section shall affect or be deemed to affect the powers of the court to try such other person under any other law for the time being in force.

(2) Where no such separate court has been established, the court before which a child is brought shall, unless the child is tried jointly with any other person not being a child, whenever practicable sit either in a different building or room from that in which the ordinary sittings of the court are held or on different days or at different times from those at which the ordinary sittings are held.

PART IX.

MISCELLANEOUS.

Provision as to religion.

58. (1) In determining the certified school to which a child or juvenile offender is to be sent under this Act, the court shall ascertain the religious denomination of the child or juvenile offender, and shall, if possible, select a school in which facilities are afforded for instruction in his religion.

(2) In determining on the person to whose care a child shall be committed under this Act, the court shall ascertain the religious denomination of the child, and shall, if possible, select a person of the same religious denomination or a person who gives such undertaking as seems to the court sufficient that the child will be brought up in accordance with the religion of the child, and such religion shall be specified in the order.

(3) In any case where a child has been committed pursuant to any such order to the care of a person who is not of the religious denomination of the child or who has not given such undertaking as aforesaid, the court which made the order or any court of like jurisdiction shall, on the application of any person in that behalf and on its appearing that a fit person of the religious denomination of the child or who will give such undertaking as aforesaid is willing to undertake the care of the child, make an order committing him to the care of such fit person.

(4) When a child is committed to the care of a certified school in which facilities for instruction in his religion are not afforded or to a person who does not give an undertaking that the child entrusted to

him will be brought up in his religion (for want of a certified school or person of the religion of the child), the court shall take an undertaking from such school or such person that the child shall not be brought up in any religion other than his own.

(5) Where a child is boarded out, or where a child or juvenile offender is permitted by licence to live with any other person, the manager of the school shall select for this purpose a person of the same religion as the child, or juvenile offender, as the case may be, if such person is available, and if no such person is available then a person who gives a satisfactory undertaking that the child or juvenile offender shall be brought up in accordance with the religion of such child, or juvenile offender, and if no such person is available then another person within the provisions of section 39 or 40, as the case may be.

(6) When a child has been committed to the care of a person who gives an undertaking as aforesaid but the undertaking is not observed, the child shall be liable to be removed from the care of such person and dealt with according to the provisions of sub-section (3) of this section.

(7) Whenever any person interested in the religion of the child is informed of any attempt at conversion or tampering with his religion, he may apply to the court for an enquiry, and the court on being satisfied may issue an order removing the said child from the custody of such institution or person and hand over the custody to another fit person or institution.

Committal to an approved place of a child suffering from venereal or tubercular disease.

59. When a child who has been brought before a Magistrate under any of the provisions of this Act is found to be suffering from a venereal or tubercular disease, the Magistrate, if satisfied that medical treatment is necessary and the child will not otherwise get such treatment, may commit the child to an approved place for such period as he may think necessary, and may from time to time extend the said period.

Removal of disqualification attaching to convictions for offences.

60. When a child is found to have committed any offence, the fact that he has been so found shall not have any effect under section 75 of the Indian Penal Code, or section 565 of the Code of Criminal Procedure, 1904, or operate as a disqualification for office or election under any law.

Control of custodian over child.

61. Any person to whose care a child is committed under the provisions of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his care notwithstanding that he is claimed by his parent or any other person.

Bonds taken under the Act.

62. The provisons of Chapter XLII of the Code of Criminal Procedure, 1904, shall, so far as may be, apply to bonds taken under this Act.

Appeals.

63. (1) An appeal from an order made by a court under sections 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 20, 34, 38, 40, or 58 shall lie—

(a) if passed by a juvenile court, to a District Magistrate ;
(b) if passed by any Magistrate, to the Court of Session ; and
(c) if passed by a Court of Session, to the High Court.

(2) No appeal shall lie from any order passed in any such appeal.

(3) Any order passed under the provisions of this Act and not subject to appeal under sub-section (1) may be revised by the High Court.

Power to amend orders.

64. Without prejudice to the powers of courts of appeal and revision, any custody order, supervision order or probation order may be amended by the court which made the order, in respect of the person named as custodian, supervisor or probation officer, the period of duration, and such matters of detail as may be prescribed.

Rules.

65. (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, such rules may be made with regard to—

(*a*) the establishment and maintenance of certified schools and auxiliary homes, and the certification of schools as certified schools and of auxiliary homes ;

(*b*) the management of certified schools and auxiliary homes ;

(*c*) the appointment of visitors and their tenure of office ;

(*d*) the inspection of certified schools ;

(*e*) the maintenance, education and industrial training of the inmates of certified schools;

(*f*) the conveyance of juvenile offenders and children to certified schools ;

(*g*) the grant of permission to the inmates of certified schools to absent themselves for short periods ;

(*h*) visits to and communication with the inmates of certified schools ;

(*i*) the punishment of offences committed by the inmates of certified schools ;

(*j*) the inspection of the institutions referred to in section 56 ;

(*k*) the manner of detention of children under arrest or remanded or committed for trial ;

(*l*) the procedure to be adopted in any case or inquiry under this Act before any court other than a juvenile court ;

(*m*) the persons who may be authorised to act under section 7 or 19 ;

(*n*) the manner in which a child may be committed to the care of relative or other fit person, and the duties of such persons and the supervision of such children.

(*o*) the conditions subject to which a juvenile offender may be released on licence under sub-section (2) of section 40 and the form and conditions of such license ;

(*p*) the manner in which a juvenile offender may be released on probation ;

(*q*) matters incidental to the appointment, resignation and removal of probation officers and the remuneration and expenses payable to them :

(*r*) the duties of probation officers ;

(*s*) the conditions on which societies may be recognized by the Government for providing probation officers ;

(*t*) the contribution by parents and other persons liable to maintain juvenile offenders and children ;

(*u*) the boarding out of children and the licensing and supervision of children and juvenile offenders and the submission of reports regarding them ;

(*v*) the procedure to be adopted in juvenile courts ; and

(*w*) the time within which appeals under section 63 shall be filed.

(3) All rules made under this section shall be published in the official Gazette, and on such publication they shall have the same effect as if enacted in this Act.

APPENDIX VII.

DRAFT.

The Mysore Children and Juvenile Courts Rules.

In exercise of the powers conferred by sections 57 and 65 of the Mysore Children Act,——, the Government are pleased to make the following rules for the purpose of carrying into effect the provisions of the said Act, namely:—

1. *Short title.*—These rules may be called the Mysore Children and Juvenile Court Rules,.....

2. *Interpretation.*—In these rules—

(1) "Act" means the Mysore Children Act, ...; and

(2) "Section" means a section of the Act.

Certification of institutions.—If the managers of any institution not certified under sub-section (2) of section 45 desire that the institution should be so certified, they shall make a written application in this behalf to the Chief Inspector, who shall cause the institution to be inspected and shall make a report to the Government regarding the provision made in the institution for the boarding, lodging and general health of the inmates, and the quality of the literary and industrial training made available.

4. *Registers to be maintained by certified schools.*—The Chief Inspector shall, subject to the general control of the Government, prescribe the registers and records to be maintained by the managers of a certified school in respect of children committed to such school.

5. *Inspection Agency.*—The Inspecting Agency for the inspection of certified schools and institutions under sub-sections (1) of sections 47 and 56 shall be as follows:—

(1) Chief Inspector.

(2) Inspectors.

6. *Chief Inspector.*—The Inspector General of Prisons in Mysore shall be the Chief Inspector. He may visit any certified school at any time, hear any complaints of the inmates, and make suggestions to the Managers of the school.

7. *Appointment and duties of Inspectors.*—The Government may from time to time appoint any person to be an Inspector of Certified Schools for any area, and the person so appointed shall thereafter work in that capacity under the orders of the Chief Inspector. He shall, at least once a year, inspect all parts of each certified school and see every child or juvenile offender confined in it. He shall during his inspection give everyone the opportunity of making any application or complaint to him which such child or juvenile offender may wish to make. A brief memorandum of the state in which he finds the school

and the manner in which it is administered, together with any suggestions he may wish to make, shall, on the occasion of each inspection, be recorded by him in the Visitors' Book.

Each Inspector of Certified Schools shall submit to the Chief Inspector an annual report on the working and progress of certified schools within his jurisdiction.

8. *Educational Inspection.*—In addition to the Inspectors appointed under rule 7, the Deputy Director of Public Instruction of each division shall also be an Inspector of Certified Schools within his division for carrying out purely educational inspection. He shall receive through the Director of Public Instruction such directions as the Chief Inspector may consider it necessary to give him and shall submit his reports of inspection of certified schools to the Chief Inspector through the Director of Public Instruction.

Each such Inspector shall inspect the premises of each certified school within his jurisdiction, see the children and juvenile offenders, and hear their complaints at least once in six months. He shall annually examine the literary classes of each such school with the help, if necessary, of the ordinary Educational Inspecting Officers, and shall satisfy himself that all the accounts and registers are maintained according to the rules for the time being in force and that proper arrangements are made for the safe custody of all records. He shall record in the Visitors' Book a brief memorandum of the state in which he finds the school and of the manner in which it is administered, together with any suggestions he may wish to make and submit annually to the Director of Public Instruction an inspection report on each school. The Director of Public Instruction will forward such report to the Chief Inspector.

9. *Inspection of Certified Schools for Girls.*—Certified Schools which are meant for girls only shall be inspected only by the Chief Inspector or by an Inspectress to be nominated by him.

10. *Inspection of Industrial Classes.*—The industrial classes attached to certified schools shall be examined by the Director of Industries and Commerce, who will submit an Inspection Report to the Chief Inspector through the Inspector of Certified Schools, if any.

11. *Detention of Juveniles not Released on Bail after Arrest.*—When a child is arrested and is not released on bail under the provisions of section 23 or otherwise, he shall be detained in a certified school or place of safety. If no certified school or place of safety is available, such child may be detained at a police-station, but in any case apart from adult prisoners:

Provided that, if the child be a girl, such girl shall be forwarded with the least possible delay to a Court empowered to pass an order under section 25. The fact of the arrest and detention shall be forthwith communicated to the parent or guardian of the child and also to the Probation Officer of the Court exercising juvenile court jurisdiction in the area of the Police station.

12. *Remand or Committal of Juveniles to Custody.*—(1) When a child is remanded or committed for trial under the provisions of section 25, he shall, unless the charge be one of culpable homicide or any other offence punishable with death or transportation, be detained in a certified school or place of safety. Where no certified school or place of safety is available, such child may be detained in a sub-jail, but apart from adult prisoners.

(2) If the charge be one of culpable homicide or any other offence punishable with death or transportation, such child instead of being detained in the manner prescribed in sub-rule (1) shall be confined, in the absence of any general or special orders that the District Magistrate may make to the contrary, in the nearest sub-jail, but in a separate cell apart from adult prisoners.

13. *Inspection of a place of safety.*—(1) Any place of safety in which a child is detained under rule 11 or 12 shall be open to inspection by the District Magistrate or any Magistrate deputed by the District Magistrate.

(2) The occupier or manager of such place of safety shall give every facility to the Probation Officer who visits the child for the purpose of making enquiries into his case.

(3) The occupier or manager of such place of safety may be paid such remuneration as the District Magistrate may decide.

14. *Constitution and procedure of Juvenile Courts.*—(*a*) Every Juvenile Court established under sub-section (1) of section 57 shall consist of a salaried First Class Magistrate sitting singly or with such Honorary Magistrates not exceeding two in number as may be specially appointed for this purpose by the Government, provided that in the absence of any one or both of the Honorary Magistrates, it shall be competent for the salaried Magistrate sitting singly or with the Honorary Magistrate who may be present, as the case may be, to exercise all or any of the powers of a Juvenile Court.

(*b*) In case of disagreement between the members of the Bench constituting the Juvenile Court, the opinion of the salaried Magistrate shall prevail.

(*c*) Subject to the control of the Government, the District Magistrates may from time to time determine, from the list of salaried First Class Magistrates and Honorary Magistrates appointed as Juvenile Court Magistrates for the district, the person or persons who shall sit in the Juvenile Court or Courts and the time when and the place at which the Juvenile Court or Courts shall sit.

15. *Proceedings of the Juvenile Court.*—(*a*) The public generally shall not have any access to, or be or remain in, any room or building used as a Juvenile Court; but the Court may, at its discretion, permit any person to be present during the whole or part of the proceedings of a case. No report of any proceedings of the Court shall be published without the Court's permission; and no such report, when permitted, shall mention the name of the child involved.

(*b*) Subject to the provisions hereinafter appearing, the procedure prescribed by the Criminal Procedure Code for the trial of summons cases, and for recording evidence therein, shall be followed in hearing all cases against Children under the Act:

Provided that when a child and a person who is not a child are charged together with an offence triable under the Code of Criminal Procedure exclusively by a Court of Session, the Court may, if it thinks fit, commit the child along with such person for trial by a Court of Session:

Provided that instead of recording a conviction, the Court, if it finds that an offence has been committed, shall record a finding to that effect.

In all such cases the proceedings shall be conducted in as simple a manner as possible and no unnecessary formality shall be observed. Care must be taken that the child accused of an offence understands the nature of the proceedings.

16. *Medical opinion regarding age and physical and mental condition of children.*—In every case against a child, the Court shall obtain medical opinion regarding his age and his physical and mental condition; and when passing orders in such case, shall, after taking into consideration the medical opinion and such other evidence as may be available, record a finding in respect of his age.

17. *Supply of information regarding juveniles by Courts and Police.*—(1) Whenever a court orders a juvenile to be detained in a certified school, it shall forward to the Managers of such school a copy of its judgment, if any, or orders, together with information regarding the age and address of the juvenile, if known, and any particulars of his home and previous record that may have been discovered.

(2) The officer in charge of the Police Station concerned shall, on the issue of orders by a Court for the detention of a juvenile in a certified school, forward to the Managers of such school, copies of any records he may have of the juvenile's previous history.

18. *Authorization of persons to act under section 7 or 19.*—The District Magistrate may authorise such Police officers and such other persons as he thinks fit, to take action under sub-section (1) of section 7 or 19 in those places to which the provisions of these sections have been applied.

19. (*i*) *Contribution of parent or other person.*—A Court making an order under sub-section (1) of section 38 may direct the parent or other person liable to maintain the child or juvenile offender, to pay into Court in advance, in the beginning of each month such sum of money as the Court may think fit not exceeding Rs. 50 in the whole per mensem, towards the maintenance of such child or youthful offender.

(*ii*) *Enforcement of order as to contribution.*—When a Court has, by its order under this rule, directed the person liable to maintain a child or juvenile offender, to pay a sum of money for the maintenance of such child or juvenile offender, and such person makes default in the payment of the sum for a period of one week after the expiry of the due date of payment, the Court may take action for the recovery of the same in the manner provided in section 488 of the Code of Criminal Procedure, 1904.

20. *Manner in which a child or juvenile offender may be committed to the care of a parent, guardian, relative or other fit person.*—

(*a*) A Court making an order committing a child or juvenile offender to the care of, or allowing a child to remain in the custody of, a parent, guardian, relative or other fit person, as the case may be, under section 7, 20 or 30, may direct such parent, guardian, relative or person to enter into bond in the form in Schedule A appended to these rules, with or without sureties, and in such sum of money as the Court may think fit, to keep him under proper care and control, and to be responsible for his good behaviour. In addition to the conditions prescribed in the form in Schedule A, the Court may impose such other conditions as it may think fit for securing that the child or juvenile offender, as the case may be, may lead an honest and industrious life.

(*b*) where a child or juvenile offender has been placed under the supervision of a probation officer, the Court shall impose a condition that all necessary assistance shall be rendered by the parent, guardian, relative or other person, as the case may be, to the probation officer to enable him to carry out of the duties of supervision.

21. *Extension of period of order.*—A Court making a committal or supervision order under section 7, 20 or 30 in respect of a child or youthful offender may, subject to the provisions of section 7, 20 or 30, as the case may be, extend the period of such committal or supervision, if, in its opinion, the progress of the child or juvenile offender, as the case may be, is not satisfactory.

22. *Application for recognition of societies for appointment of probation officers.*—Any society desiring to be recognized for the purpose of appointing persons to be probation officers under clause (*b*) of sub-section (1) of section 31 shall apply to the Government in writing through the Chief Inspector of Certified Schools.

23. *Probation Officers not to employ children or juvenile offenders for their private purposes.*—A probation officer shall not employ a child or a juvenile offender placed under his supervision, for his own private purposes or take any private service from him.

24. *Conditions for release on licence under section* 40 (2).—A youthful offender detained in a certified school shall not be released by the Chief Inspector under sub-section (2) of section 40 except on the conditions prescribed in Schedule B appended to these Rules.

25. *Short leave of absence to inmates of certified schools.*—(1) The Manager of a certified school may, on sufficient cause being shown to his satisfaction, grant permission in writing to an inmate to absent himself for short periods not exceeding three days at a time, subject to a maximum of nine days in a year, exclusive of the time required for going to and returning from the destination, for the purpose of visiting parents or relations.

(2) The time during which an inmate is absent from the school under sub-rule (1) shall be deemed to be part of the time of his detention in the school.

(3) The permission granted under sub-rule (1) may, at any time, be cancelled by an order in writing by the Manager, and the inmate may be recalled by him without giving any reasons therefor.

(4) If any inmate fails to return to the school at the expiry of the period permitted under sub-rule (1) or when recalled under sub-rule (3), the Manager shall report the matter to the Chief Inspector, and any Police Officer, may, on the application in writing of such Manager, arrest the inmate without warrant and send him back to the school.

(5) The time which elapses after the failure of an inmate under sub-rule (4) to return to the school shall be excluded in computing the time of his detention in the school.

(6) Any parent or guardian contributing towards the maintenance of his child in a certified school, under an order passed by a Court under sub-section (1) of section 38 shall be exempt from the payment of such contribution for the period during which the child is absent from the school under sub-rule (1).

26. *Escape from a certified school or supervision.*—Any child who escapes from a certified school, or from the supervision of a society, or person under whose supervision he was directed to remain, may be arrested by any officer of Police without warrant and sent back to such certified school, society or person, as the case may be.

SCHEDULE A.

(*Rule 20.*)

Whereas I *

being the parent, guardian, relative or person
in whose custody / to whose care †
has been / by the
allowed to remain / ordered to be committed
juvenile court / Magistrate
, have been directed by the said
juvenile court / Magistrate to execute a bond in the sum of rupees (Rs.), with
one surety‡ / two sureties, I hereby bind myself that on the said being allowed to remain in my custody / committed to my care I shall have the said properly taken care of and I do further bind myself to be responsible for the good behaviour of the said and to observe the following conditions for a period of years commencing from..... ..... :—

(1) that I shall not change my place of residence without giving previous intimation in writing to the Court through the probation officer;

(2) that I shall not remove the said from the limits of the jurisdiction of the Court without previously obtaining the written permission of the Court;

(3) that I shall send the said
§daily to school / to such daily work as is approved by the Court, unless prevented from so doing by circumstances beyond my control;

(4) that I shall report immediately to the Court through the probation officer if the said misbehaves or absconds from my custody;

---

*Here enter the name of the person to whose care the child or juvenile offender is committed.

†Here enter the name of the child or juvenile offender as the case may be.

‡Omit where no surety is required.

§To be retained in the case of a child or juvenile offender of school age.

(5) that I shall produce the said
before the Court whenever so required by the Court ;

*(6) that I shall render all necessary assistance to the probation officer to enable him to carry out the duties of supervision.

( ) †
( ) †
( ) †

‡(7) In the event of my making default herein, I bind myself to forfeit to the Government the sum of rupees (Rs.).

Dated this the day of 194 .

Before me,

(Signed)

Signature of persons executing the bond.

(Where a bond with sureties is to be executed add)

I/We of in the taluk of in the district of hereby declare $\frac{\text{myself surety}}{\text{ourselves sureties}}$ for the aforesaid that he shall do and perform all that he has undertaken to do and perform and in case of his making default therein, I/we hereby bind $\frac{\text{myself}}{\text{ourselves jointly and severally}}$ to forfeit to the Government the sum of rupees
(Rs.).

Dated this the day of 194 .

In the presence of

Before me

1.
2.

(Signed)

---

* These words should be omitted if the supervision by a probation officer has not been ordered.

† Here enter addit onal conditions, if any, imposed by the Court numbering them properly.

‡ To be re-numbered where necessary.

SCHEDULE B.

Form of order of release on licence (vide rule 24).

I, Chief Inspector of Certified Schools in Mysore do by this licence permit $\frac{\text{son}}{\text{daughter}}$ of caste residence number who was ordered to be detained in a certified school by the Court under section of the Mysore Children Act,..... for a term of on the day of 19 , and who is now detained in the school at to be discharged from the said school on condition that $\frac{\text{he}}{\text{she}}$ be placed under the care, supervision and authority of during the remaining portion of the aforesaid period of detention.

This licence is granted subject to the conditions endorsed hereon, upon the breach of any of which it shall be liable to be revoked.

Chief Inspector of Certified Schools in Mysore.

Dated the

Conditions.

(1) The licensee shall proceed to and live under the authority of the * $\frac{\text{Secretary, After-care Association}}{\text{Society}}$ _____ until the expiry of A. B

the period of $\frac{\text{his}}{\text{her}}$ detention unless the remission is sooner cancelled.

(2) $\frac{\text{He}}{\text{She}}$ shall not, without the consent of the said $\frac{\text{Secretary}}{\text{Society}}$, A. B.

remove $\frac{\text{himself}}{\text{herself}}$ from that place or any other place which may be named by the said $\frac{\text{Secretary}}{\text{Society}}$. A. B.

(3) $\frac{\text{He}}{\text{She}}$ shall obey such instructions as $\frac{\text{he}}{\text{she}}$ may receive from the said $\frac{\text{Secretary}}{\text{society}}$ with regard to punctual and regular attendance at A. B.
employment or otherwise.

* Where necessary this may be struck off and the name of any society or person approved by the Chief Inspector may be entered.

(4) He / She shall abstain from committing any offence and shall lead a sober and industrious life to the satisfaction of the said Secretary / Society / A. B.

(5) In the event of his / her committing a breach of any of the above conditions, the remission of the period of detention hereby granted shall be liable to be cancelled and on such cancellation he / she shall be dealt with under sub-section (3) of section 40 of the Mysore Children Act, ...

I hereby acknowledge that I am aware of the above conditions which have been read over / explained to me and that I accept the same.

(Signature or mark of the licensee.)

Certified that the conditions specified in the above order have been read over / explained to (name)
and that he / she has accepted them as the conditions upon which the remission of the period of detention has been granted to him / her and that he / she has been released accordingly on the
194 .

Signature and designation of the certifying authority
(*i.e.*, Superintendent of the School).

APPENDIX VIII.

DRAFT.

THE MYSORE BORSTAL SCHOOLS BILL.

An Act to provide for the Establishment and Regulation of Borstal Schools in Mysore.

Whereas it is expedient to provide for the establishment and regulation of Borstal Schools in Mysore; His Highness the Maharaja is pleased to enact as follows:—

PART I.

PRELIMINARY.

1. This Act may be called the Mysore Borstal Schools Act,—. Short title.

2. (1) This Act shall apply to the whole of Mysore. Extent and commencement.

(2) It shall come into operation in any local area in Mysore on such date as the Government may, by notification in the Official Gazette, appoint in this behalf.

3. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(*a*) "Borstal School" means a place in which young offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime;

(*b*) "Inspector General" means the Inspector General of Prisons and includes any officer appointed by the Government to perform all or any of the duties imposed by this Act on the Inspector General; and

(*c*) "Prescribed" means prescribed by rules made under this Act.

4. (1) For the purposes of this Act the Government may establish one or more Borstal Schools. Establishment of Borstal Schools.

(2) For every Borstal School, a Visiting Committee shall be appointed in such manner as may be prescribed.

5. Subject to any alterations, adaptations and exceptions made by this Act and the rules framed under it, the Prisons Act, and the Mysore Prisoner's Testimony Act, 1894, and the rules framed thereunder shall apply in the case of every Borstal School established under this Act as if it were a prison and the inmates prisoners. Application of the Prisons Act.

PART II.

COMMITTAL TO BORSTAL SCHOOLS.

Court may pass order for detention in a Borstal School.

6. When an offender is found guilty of an offence for which he is liable to be sentenced to transportation or imprisonment, or is liable to imprisonment for failure to furnish security under Chapter VIII of the Code of Criminal Procedure, 1904, whether any previous conviction is proved against him or not, and it appears to the Court—

(*a*) that the offender is not less than sixteen or, in any district or place in which the Mysore Children Act,—, is not in operation, less than fifteen nor more than twenty-one years of age; and

(*b*) that by reason of his criminal habits or tendencies or association with persons of bad character it is expedient that the offender should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation,

it shall be lawful for the Court, if empowered in this behalf, to pass, in lieu of a sentence of transportation or imprisonment, or of an order of imprisonment under section 123 of the Code of Criminal Procedure, 1904, an order for the detention of the offender in a Borstal School for a term, which shall not be less than three years and shall not exceed five years, but in no case extending beyond the date on which the offender will, in the opinion of the Court, attain the age of twenty-three years:

Provided that before passing such an order the Court shall give an opportunity to the parents or guardians of the said offender to be heard, and shall consider any report or representation which may be made to it as to the suitability of the case for treatment in a Borstal School, and shall be satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case, are such that the offender is likely to profit by such instruction and discipline as aforesaid:

Provided further that no person who has been previously detained for the whole period prescribed in an order of detention or who has been transferred to prison under section 13 of this Act, shall again be ordered to be detained.

Power of Government to exempt.

7. The Government may, by rules made under this Act, direct that any class or classes of persons specified in such rules shall not be ordered to be detained in a Borstal School.

Courts empowered to pass order or detention.

8. The powers conferred on Courts by this Act shall be exercised only by the High Court, a Court of Session, a District Magistrate, a Sub-Divisional Magistrate, or a Magistrate of the first class, and may be exercised by such Courts whether the case comes before them originally, or on appeal, or in revision.

Procedure when Magistrate is not empowered to pass an order under this Act.

9. (1) When any Magistrate not empowered to pass an order for detention under this Act is of opinion that an offender who has been found guilty by him or who has failed to furnish the security which the Magistrate has ordered him to furnish under Chapter VIII of the Code of Criminal Procedure, 1904, is a proper person to be detained in a Borstal School, he may, without passing any order, record such opinion and submit his proceedings and forward the offender to the District Magistrate to whom he is subordinate,

(2) The District Magistrate to whom the proceedings are so submitted may transfer the proceedings to any Magistrate subordinate to him competent to pass an order under this Act.

(3) The District Magistrate to whom the proceedings are so submitted or any Magistrate to whom the proceedings are so transferred may make such further enquiry (if any) as he may think fit, and may pass such order for the detention of the offender in a Borstal School, or such other sentence or order, as he might have passed if such offender had originally been brought before or tried by him.

Limitation of powers conferred by section 6.

10. Any offender detained in a Borstal School for failure to furnish security when ordered to do so under section 106 or section 118 of the Code of Criminal Procedure, 1904, shall be released on furnishing such security or on the passing of an order under section 124 of the said Code.

Transfer from prison to Borstal School.

11. The Inspector General may, if satisfied that a person undergoing transportation or imprisonment in consequence of a sentence passed either before or after the commencement of this Act, being within the limits of age within which persons may be ordered to be detained in a Borstal school under this Act, might with advantage be detained in such School, direct him to be transferred from prison to a Borstal School, there to serve the whole or any part of the unexpired residue of his sentence, and whilst detained in such a school, the provisions of this Act shall apply to such person as if he had been originally ordered to be detained in a Borstal School.

Preliminary enquiry and findings as to age of youthful offender.

12. (1) Before passing a sentence under section 6, the Court shall enquire into the age of the offender and after taking such evidence (if any) as may be deemed necessary, shall record a finding thereon stating his age as nearly as may be.

(2) A similar enquiry shall be made and finding recorded by every Magistrate not empowered to pass sentence under section 6 before submitting his proceedings and forwarding the offender to the District Magistrate as required by sub-section (1) of section 9.

Transfer of incorrigibles, etc., to prison.

13. (1) Where an offender detained in a Borstal School escapes, or is reported to the Government by the Inspector General to be incorrigible or to exercise a bad influence on the other inmates of the school, the Government may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the Government may determine, but in no case exceeding the shortest of the following three periods:—

(*a*) the unexpired residue of the term of detention; or

(*b*) the maximum period of imprisonment provided by law for the offence of which the offender was found guilty or the failure to give security, as the case may be, in consequence of which the offender was ordered to be detained in a Borstal School;

(*c*) the maximum period of imprisonment which the Court that tried him had authority to award under the Code of Criminal Procedure, 1904.

(2) Such offender may be confined in any prison in Mysore by warrant under the hand of a Secretary to Government, and effect shall be given to such warrant, and the sentence of imprisonment passed

upon such offender shall be executed in the same manner as if such person had been sentenced by a competent court of criminal jurisdiction.

Government to determine the Borstal School in which a person shall be detained.

14. (1) Every offender ordered to be detained in a Borstal School shall be detained in such Borstal School as the Government may, by general or special order, or in the prescribed manner, appoint for the reception of persons so ordered to be detained:

Provided that, if accommodation in a Borstal School is not immediately available for such offender, he may be detained in a special ward, or such other suitable part of a prison as the Government may direct, until he can be sent to a Borstal School. The period of detention so undergone shall be treated as detention in a Borstal School.

Removal from one school to another.

(2) The Inspector General may order the removal of any offender from any one Borstal School to any other Borstal School, provided that the whole period of his detention in a Borstal School shall not be increased by such removal.

PART III.

Release on Licence.

Power to release on licence.

15. (1) Subject to the prescribed conditions, the Inspector General may, on the recommendation of the Visiting Committee, at any time after the expiration of six months from the commencement of the detention of an offender in a Borstal School, if he is satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, discharge him from the Borstal School and grant him a written licence in the prescribed form and on the prescribed conditions permitting him to live under the supervision and authority of such—

(*a*) officer of Government,

(*b*) secular institution,

(*c*) religious society, or

(*d*) responsible person,

as may be approved by the Inspector General and willing to take charge of the offender.

(2) A licence under this section shall be in force until the expiry of the term for which the offender was ordered to be detained in a Borstal School, unless sooner revoked.

(3) The period during which an offender is absent from a Borstal School during the continuance of a licence granted to him under this section shall, for the purposes of computing his term of detention in such school, be deemed to be part of that detention.

Revocation of licence.

16. (1) Subject to the prescribed conditions, the Inspector General may at any time, and shall, at the request of the institution, society or person under whose supervision and authority the offender has by licence been permitted to live, revoke a licence granted under section 15, and upon such revocation the offender shall be detained in a Borstal School until the expiry of the term for which he was ordered to be detained in such school.

(2) If an offender removes himself from the supervision of the institution, society or person under which he was by licence permitted to live, his licence shall be deemed to have been revoked from the date on which he has so removed himself.

Subsequent supervision.

17. (1) When the Inspector General and the Visiting Committee report that the conduct of any offender detained in a Borstal School has been such that it is expedient that he shall remain under supervision for a further period after the end of the term of detention, the Government may direct that he shall, on the expiration of the term of his detention, remain for a further period not exceeding one year under the supervision of such authority, society or person as the Inspector General, subject to the rules made under this Act, may direct.

(2) The Government may also direct that any offender who is under supervision in accordance with sub-section (1) shall again be detained in a Borstal School for such period as it may think fit, provided that the total period of detention under this section shall not exceed one year.

Period of detention.

18. No person shall be detained in a Borstal School after he has, in the opinion of the Government, attained the age of twenty-three years, or, if in any particular case the Government so directs, after he has attained the age of twenty-five years.

Arrest of offender escaping from Borstal School, or escaping from supervision.

19. Any offender who, in contravention of the provisions of this Act, has escaped from a Borstal School, or has escaped from the supervision of any authority, institution, society or person under whose supervision he has been directed to remain, or has been permitted to live by licence under section 15, may be arrested by any officer of Police without warrant and without the order of a Magistrate and sent back to the Borstal School or to such authority, institution, society or person, as the case may be, and his licence shall be forfeited with effect from the date of his escape.

PART IV.

CONTROL AND MANAGEMENT OF BORSTAL SCHOOLS.

Management of Borstal Schools.

20. Subject to the orders of the Inspector General and subject also to the rules made by the Government, the control and management of every Borstal School shall vest in a Superintendent appointed by the Government.

Constitution, powers and duties of Visiting Committees.

21. (1) (*a*) Every Visiting Committee appointed under sub-section (2) of section 4 shall consist of the Sessions Judge, the District Magistrate, the District Educational Officer of the district in which the school is situated and four non-official members appointed by the Government.

(*b*) The non-official members shall hold office for a period of two years, but shall be eligible for re-appointment on the expiry of that period.

(2) It shall be the duty of the Visiting Committee and its members—

(*a*) to visit the school either individually or collectively on such occasions as may be fixed by the rules made under this Act in that behalf for the purpose of ensuring that the provisions of this Act are duly given effect to;

(*b*) to make such suggestions for the improvement of the training therein as are considered necessary and to report to the Government or to the Inspector General from time to time any matter, which, in their opinion, should receive attention and annually on the progress of the school ;

(*c*) to interview the inmates immediately after their arrival and to make suggestions, if any, as to the special training which each should receive ;

(*d*) to consider cases of release on licence under sub-section (1) of section 15 placed before them by the Superintendent ; and

(*e*) to consider such action as may be necessary in regard to the inmates whose term of detention is about to expire.

(3) Subject to such rules as may be made in that behalf by the Government, every member of the Committee shall be entitled to call for information from the Superintendent, to examine the records of the school, and to take such other action as he deems necessary for the due discharge of his duties.

Classification of inmates.

22. (1) The inmates of a Borstal School shall be divided by the Superintendent according to their industry and good conduct into four grades, namely :—

(1) The penal grade.
(2) The ordinary grade.
(3) The star grade.
(4) The special star grade.

(2) The privileges of each grade shall be higher than those of the grade preceding, if any.

(3) Every inmate shall, on reception in a Borstal School, be placed in the ordinary grade.

(4) The Superintendent may promote or reduce any inmate from one grade to another in accordance with the provisions of sub-section (5), the rules made under this Act, and the general instructions of the Visiting Committee.

(5) Promotions and reductions shall be regulated by close personal observation of the inmates, and shall depend specially on their general behaviour, amenability to discipline and attention to instruction, both literary and industrial.

Punishments for offences.

23. (1) The punishments which may be inflicted on an inmate of a Borstal School for offences specified in the Prisons Act, ... and the rules made thereunder, shall be in the following forms and in no other :—

(i) Formal warning.
(ii) Extra drill.
(iii) Deprivation of any of the privileges of the grade.
(iv) Reduction in grade.
(v) Cuts on the hand by a rattan not exceeding six on each hand.

(2) No punishment shall be awarded to any inmate by any official of the school except by the Superintendent or in his absence the official exercising his functions.

Penalty for introduction or removal of prohibited articles.

24. Whoever, contrary to any rule under section 27, introduces or removes, or attempts by any means whatever to introduce or remove, into or from any Borstal Institution, or supplies or attempts to supply to any inmate outside the limits of such Institution any prohibited articles, and every officer of a Borstal Institution who, contrary to such rule, knowingly suffers any such articles to be introduced into or removed from any Borstal Institution to be possessed by any inmate, or to be supplied to any inmate outside the limits of a Borstal Institution, and whoever, contrary to any such rules, communicate or attempts to communicate with any inmate, and whoever abets any offence made punishable under this section, shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months or to fine not exceeding two hundred rupees or to both.

Limitation of hours of work.

25. No inmate of a Borstal School shall be made to work for more than eight hours a day:

Provided that extra drill awarded as a punishment under sub-section (1) of section 23 shall not be deemed, for the purposes of this section, to be work.

Probation officers.

26. (1) For every inmate released under sub-section (1) of section 15 there shall be a probation officer appointed by the District Magistrate in consultation with the Borstal Association, if any, in the district wherein the school is situated or in the district wherein the inmate permanently resided at the time he was sentenced under section 6.

(2) Two months prior to the release of any inmate, the Superintendent shall request the District Magistrate to appoint a suitable probation officer as provided in sub-section (1).

(3) The District Magistrate shall communicate all appointments of probation officers made under sub-section (1) to the Superintendent in sufficient time for the inmates concerned being informed of their respective probation officers before their release from the school.

Explanation.—For the purpose of this section, "District Magistrate" shall mean the District Magistrate of the District in which the inmate permanently resided at the time he was sentenced under section 6.

PART V.

RULES.

Rules.

27. (1) The Government may make rules for the regulation and management of any Borstal School and for the carrying into effect of the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or determine—

(*a*) the control and management of Borstal Schools established under this Act;

(*b*) the appointment, powers and duties of officials in such schools;

(*c*) the constitution, powers and duties of Visiting Committees;

(*d*) the classification, control, discipline, training, instruction and treatment of offenders ordered to be detained in a Borstal School and for the temporary detention of such offenders until arrangements can be made for sending them to such school;

(*e*) the regulation of visits to, and communication with, offenders detained in such school;

(*f*) the restriction or prohibition of the supply to, or possession by, offenders detained in such school of any specified articles or kinds of articles;

(*g*) the period for which offenders or any class or classes of offenders may, within the limits fixed by this Act, be ordered to be detained in such school;

(*h*) the class or classes (if any) of offenders who shall not be ordered to be detained in such school;

(*i*) the form and conditions of licenses granted under section 15;

(*j*) the supervision of offenders after the expiration of the term of their detention;

(*k*) the transfer of incorrigible offenders from a Borstal School to prison.

(3) All rules made under this Act shall be published in the Official Gazette, and on such publication shall have the same effect as if enacted in this Act.

PART VI.

Appeal and Revision.

Appeal and revision.

28. (1) For the purposes of appeal and revision under the Code of Criminal Procedure, 1904, an order of detention under section 6 of this Act, shall be deemed to be a sentence of imprisonment for the same period.

(2) Any person affected by an order of the Inspector General under this Act may appeal to the Government, whose orders shall be final

PART VII.

Miscellaneous.

Power of Government to discharge an inmate.

29. The Government may at any time order the discharge of an inmate of any Borstal School either absolutely or subject to such conditions as it may think fit.

Detention in a Borstal School not to be deemed to be a disqualification

30. The detention of an offender in a Borstal School shall not be deemed to be a disqualification attaching to a conviction for any offence.

APPENDIX IX.

DRAFT

THE MYSORE PROBATION OF OFFENDERS BILL.

An Act to provide for the release on probation of offenders.

WHEREAS it is expedient to provide for the release on probation of offenders in certain cases and for other matters incidental thereto; His Highness the Maharaja is pleased to enact as follows :— Short title, extent and commencement.

1. (1) This Act may be called the Mysore Probation of Offenders Act,--.

(2) It extends to the whole of Mysore.

(3) It shall come into force in such area and on such date as the Government may by notification in the official Gazette direct.

2. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(*a*) the "Code" means the Code of Criminal Procedure, 1904;

(*b*) "Court" means a Court empowered to exercise powers under this Act;

(*c*) "Probation order" means an order made under sub-section (1) of section 5;

(*d*) "recognized society" means a society recognized by the Government for the purposes of section 10;

(*e*) "supervision order" means an order made under sub-section (2) of section 5; and

(*f*) words and expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

3. (1) The following Courts are hereby empowered to exercise powers under this Act, namely :— Courts empowered to pass orders under the Act.

(*a*) The High Court.
(*b*) A Court of Session.
(*c*) A District Magistrate.
(*d*) A Sub-Divisional Magistrate.
(*e*) A Magistrate of the First Class.
(*f*) Any other Magistrate specially empowered in this behalf.

(2) The powers conferred under sub-section (1) may be exercised by such Courts, whether the case comes before them originally or on appeal or in revision.

(3) Where any offender is convicted by a Magistrate not empowered to exercise powers under this Act, and such Magistrate is of opinion that the powers conferred by section 4 or 5 should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Sub-Divisional Magistrate, forwarding the offender to, or taking bail for his appearance before such Magistrate, who shall dispose of the case in the manner provided by section 380 of the Code.

Power of Court to release certain convicted offenders after admonition.

4. Notwithstanding anything contained in any enactment for the time being in force, in any case in which a person is convicted of any offence punishable with not more than two years' imprisonment or fine or both and no previous conviction is proved against him, the Court by which he is so convicted, may, if it thinks fit, having regard—

(*a*) to the age, character, antecedents or physical or mental condition of the offender, and

(*b*) to the nature of the offence or any extenuating circumstances under which the offence was committed,

for reasons to be recorded in writing, instead of sentencing him to any punishment, release him after due admonition.

Power of court to release certain convicted offenders on probation of good conduct.

5. (1) Notwithstanding anything contained in any enactment for the time being in force, when

(*a*) any male person is convicted of an offence not punishable with death or transportation for life, or

(*b*) any woman is convicted of an offence of any kind,

if it appears to the Court by which the offender is convicted, that regard being had to the age, character, antecedents or physical or mental condition of the offender, or to the circumstances in which the offence was committed, it is expedient that the offender should be released on probation of good conduct, the Court may, for reasons to be recorded in writing, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period not being less than one year and not exceeding three years as the Court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that the Court shall not pass a probation order under this section unless it is satisfied that the offender or one of his sureties (if any) has a fixed place of abode or regular occupation and is likely to continue to have such place of abode or such occupation, within the local limits of its jurisdiction during the period of the bond:

Provided also that if a person under twenty-one years of age is convicted of any offence under the Indian Penal Code, as in force in Mysore, or any other enactments prescribed in this behalf under rules made by the Government, which is punishable with imprisonment not exceeding six months, the Court shall take action under this section, unless for special reasons to be recorded in writing, it does not consider it proper to do so.

(2) Where the offender appears to the Court to be under the age of twenty-five years, the Court may for reasons to be recorded in writing make an order, hereinafter called a supervision order, directing that the bond to be entered into under sub-section (1) shall contain a condition that the offender shall be under the supervision of a probation officer named in the order during the period specified therein and such other conditions as in the opinion of the Court may be necessary for securing such supervision:

Provided that the period so specified shall not extend beyond the date on which, in the opinion of the Court, the offender shall attain the age of twenty-six years.

(3) While making a supervision order the Court may also direct that the bond shall contain such additional conditions with respect to residence, abstention from intoxicants and any other matters as the

Court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or a commission of other offences by the offender.

(4) A Court making a supervision order shall furnish the offender with a written statement of the conditions which he is required to observe.

Power of court to require released offender to pay damages and costs, and recovery of such damages and costs.

6. (1) A Court directing the release of an offender under section 4 or section 5 may order the offender to pay such compensation for loss or injury caused to any person by the offence and such costs of the proceedings as the Court thinks reasonable :

Provided that the amount of compensation and costs so awarded shall in no case exceed the amount of fine which the Court could have imposed in respect of the offence.

(2) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under sub-section (1).

(3) The amount ordered to be paid under this section may be recovered as a fine in accordance with the provisions of sections 386 and 387 of the Code.

Appeal and powers of Court in appeal and revision.

7. (1) Notwithstanding anything contained in the Code, except in cases in which the offender has pleaded guilty, or where the order is passed by the High Court, an appeal shall lie from an order of conviction in every case in which an order is passed under section 4 or 5 to the Court to which appeals ordinarily lie under the Code.

(2) The appellate Court or the High Court in exercise of its powers of revision may pass any such order as it could have passed under the Code, or may set aside an order under section 4 or 5 and in lieu thereof pass sentence on such offender according to law :

Provided that the Appellate Court or the High Court in revision shall not inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

Provision in case of offender failing to observe condition of release.

8. (1) If the Court before which an offender is bound by his bond under section 5 to appear and receive sentence when called upon or any Court which could have dealt with the offender in respect of his original offence, has reason to believe that the offender has failed to observe any of the conditions of his bond, it may issue a warrant for his arrest or may, if it thinks fit, issue a summons to the offender and his sureties, if any, requiring him or them to attend before it at such time as may be specified in the summons.

(2) The Court before which an offender is brought or appears under sub-section (1) may either remand him to custody until the case is heard or admit him to bail, with or without sureties, to appear on the date of hearing.

(3) If the Court, after hearing the case, is satisfied that the offender has failed to observe any of the conditions of his bond, including any conditions which may have been imposed under sub-section (2) or sub-section (4) of section 5, it may forthwith—

(*a*) sentence him for the original offence, or

(*b*) without prejudice to the continuance in force of the bond, impose upon him a fine not exceeding one hundred rupees.

Provided that the Court passing a sentence of fine under clause (*a*) or (*b*) shall take into account the amount of compensation ordered to be paid under section 6.

(4) If a fine imposed under clause (*b*) of sub-section (3) is not paid within such period as the Court may fix, the Court may sentence the offender for the original offence.

Provision as to bonds.

9. The provisions of sections 122, 126, 126-A, 406-A, 514, 514-A, 514-B and 515 of the Code, shall, so far as may be, apply in the case of sureties given under this Act.

Appointment of probation officers.

10. (1) A probation officer named in a supervision order may be—

(*a*) any person appointed to be a probation officer by the Government, or

(*b*) any person nominated for this purpose with the previous approval of the Government by a recognized society, or

(*c*) any other person who, in the opinion of the Court, is a fit person to act as a probation officer in the special circumstances of the case.

(2) A probation officer named under sub-section (1) shall be a person who shall possess such qualifications as may be prescribed by rules made in this behalf.

(3) A probation officer, in the exercise of his duties under any supervision order, shall be subject to the control of the District Magistrate of the district in which the offender for the time being resides.

(4) The Court before which an offender is bound by his bond under section 5 to appear and receive sentence when called upon, may at any time appoint another probation officer in place of the person named in the supervision order.

Duties of probation officers.

11. A probation officer shall, subject to the provisions of section 10 and rules made under this Act and subject to the directions of the Court—

(*a*) visit or receive visits from the offender at such reasonable intervals as may be specified in the supervision order or, subject thereto, as the probation officer may think fit;

(*b*) see that the offender observes the conditions of the bond;

(*c*) report to the Court as to the behaviour of the offender;

(*d*) advise, assist and befriend the offender and, when necessary, endeavour to find him suitable employment; and

(*e*) perform any other duty which may be prescribed by rules made under this Act.

Variation of conditions of probation on application by probation officer.

12. (1) The Court before which any person is bound by a bond under section 5 to appear and receive sentence may at any time, upon the application of the probation officer or of its own motion, if it thinks that it is expedient that the terms or conditions of the bond should be varied, summon the offender to appear before it, and, if he fails to show cause why such variation should not be made, vary the terms of the bond by extending or diminishing the duration thereof or by altering any of the conditions thereof or by inserting additional conditions therein:

Provided that in no case shall the duration of the bond be less than one year or more than three years from the date of the original order, and where a supervision order has been made under sub-section (2) of section 5, the duration of the period of supervision shall not extend beyond the date on which, in the opinion of the Court, the offender shall attain the age of twenty-six years :

Provided further that, in the case of a bond with a surety or sureties, no such variation shall be made without the consent thereto of such surety or sureties, and that in the absence of such consent the Court shall in all such cases require the offender to enter into a new bond with or without sureties.

(2) Such Court may also, on application made by the probation officer or of its own motion, on being satisfied that the conduct of the offender has been such as to make it unnecessary that he should be kept any longer under supervision, discharge the bond.

Power to make rules.

13. (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules—

(*a*) regulating the appointment, resignation and removal of probation officers and prescribing the qualifications of such officers ;

(*b*) prescribing and regulating the duties of probation officers ;

(*c*) regulating the remuneration and expenses payable to probation officers ;

(*d*) specifying conditions on which societies may be recognized for the purposes of clause (*b*) of sub-section (1) of section 10 ; and

(*e*) prescribing the enactments referred to in the second proviso to section 5 (1).

(3) All rules made under this section shall be published in the official Gazette, and on such publication shall have the same effect as if enacted by this Act.

Barring of operation of Section 562 of Act II of 1904.

14. In any area in which this Act is in force, no Court shall make an order under section 562 of the Code in respect of any first offender.

Saving of Mysore Children Act and the Mysore Borstal Schools Act.

15. Nothing in this Act shall affect the provisions of the Mysore Children Act, ..., or the Mysore Borstal Schools Act ..... .

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